

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JAN 31 1991

JACK C. SILVER, CLERK
U.S. DISTRICT COURT

MARY SUE SMITHEY,

Plaintiff,

vs.

No. 90-C-477-C

TRANSWESTERN MINING COMPANY,
SUNBELT MINING COMPANY, INC.,
and PUBLIC SERVICE COMPANY
OF NEW MEXICO,

Defendants.

ORDER

Before the Court is the objection filed by defendant Transwestern Mining Company (Transwestern) to the Magistrate's Report filed October 17, 1990 in which he recommended denying Transwestern's motion to dismiss Count 5 of the Complaint.¹

In Count 5, plaintiff asserts that Transwestern has an obligation under the lease to mine all coal which is "economically recoverable" and failure to do so constitutes breach of contract. Plaintiff seeks royalty payments for the difference between the coal actually mined and the coal which was not mined but "economically recoverable".

¹Neither party has filed objections to the Magistrate's recommendation ¹denying Transwestern's motion to dismiss Counts 2, 3 and 4 as barred by Oklahoma's two year statute of limitations, ²granting Transwestern's motion to dismiss count 2, for failure to state a claim for fraud, and ³granting Transwestern's motion to dismiss Count 4, no fiduciary duty is owed arising out of a mineral lease. Accordingly the Magistrate's recommendation as to these matters is rendered a final order.

Plaintiff asserts the requirement to mine all economically recoverable coal is expressly contained within the Coal Lease.² Specifically plaintiff relies on paragraph 2 of the Coal Lease which states:

If coal of sufficient thickness, quality and quantity is found to make mining economically feasible, TBI shall commence to obtain the necessary permits from the appropriate regulatory agencies of the State and/or Federal Government and shall obtain said permits at the earliest possible time. As soon as all necessary permits are received, TBI shall provide a mining schedule for the mining of said lease, TBI will use reasonable energy to develop the coal in a good and workmanlike manner.

(emphasis added)

This paragraph does not support plaintiff's assertion. Rather, it provides that the lessee shall commence the permit application process if coal is discovered in amounts sufficient to make mining economically feasible. It does not require the lessee to develop all economically recoverable coal. The language requiring the coal to be developed "in a good and workmanlike manner" refers to the method, mode, ways or means of conducting mining operations, and does not address the quantity to be mined. The only requirement imposed on the lessee is to use "reasonable energy to develop the coal". This language leaves wide discretion in the hands of the lessee in determining the amount of coal to be mined. Additionally, under paragraph 4 of the Coal Lease, the lessee is only obligated to pay royalties for coal actually mined.

Any evidence that plaintiff may offer regarding oral discussions or estimates made prior to entering into the lease agreement is barred from consideration by the parol evidence rule.

²Plaintiff originally entered into the Coal Lease with Turner Brothers, Inc. (TBI). The lease was subsequently assigned to defendant Transwestern.

Under the parol evidence rule, all previous oral discussions are merged into, and superseded by, the terms of the executed written agreement. Ollie v. Rainbolt, 669 P.2d 275 (Okla. 1983). See also 15 O.S. §137.

Alternatively, plaintiff asserts that the Court should imply, as a matter of law, a covenant within the Coal Lease to mine all economically recoverable coal. Plaintiff argues that this is a logical extension of the "implied covenant" imputed in all oil and gas leases "to operate the property as a prudent operator." The Court finds no authority for imposing such a requirement. There is no basis for implying that a lessee mine a definite quantity of coal. Matters such as quantity or quality should be determined by the parties to the agreement. The Court will not supply these terms by construction or by law.

In his Report, the Magistrate determined from "reading the lease in its entirety" ...

that once economically recoverable coal was found, both parties contemplated mining would begin and continue unless suspended because of (a) "unavoidable accident"; (b) "strikes"; (c) "or on account of unsatisfactory price or market conditions making it impossible in the opinion of Turner Brothers, Inc. to mine, strip or auger and sell coal at a reasonable profit."³

The Magistrate is incorrect. This paragraph is the "performance clause" of the parties' agreement. Paragraph 8 requires lessee to commence mining, stripping or augering within one year of the date of delivery of the lease, and to continue mining operations for the term of the lease. It also lists the conditions which would excuse


³Report and Recommendation of U. S. Magistrate, p.6, citing paragraph 8 of the Coal Lease.

performance under the lease. This paragraph has no relevance to the quantity of coal to be mined.

For the reasons set forth above, the Court hereby grants the motion of defendant to dismiss Count 5 of the complaint for failure to state a cause of action.

Additionally, defendant's motion to dismiss Counts 2 and 4 is hereby granted for failure of the plaintiff to object to the Magistrate's recommendation thereby confessing or acquiescing in the matters determined therein.

IT IS SO ORDERED this 31st day of January, 1991.


H. DALE COOK
Chief Judge, U. S. District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

ARTIE BURTON, III,

Plaintiff,

vs.

SUTHERLAND BUILDING MATERIAL
COMPANY n/k/a SUTHERLAND
BLDG. MAT. LTD. PTNSP,

Defendant.

No. 90-C-172-E

FILED

JAN 31 1991

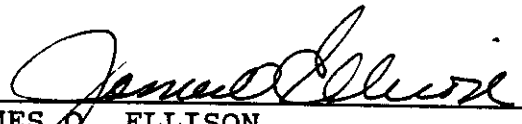
Jack C. Silver, Clerk
U.S. DISTRICT COURT

ADMINISTRATIVE CLOSING ORDER

The Court has been advised by counsel that this action has been settled, or is in the process of being settled. Therefore it is not necessary that the action remain upon the calendar of the Court.

IT IS THEREFORE ORDERED that the Clerk administratively terminate this action in his records, without prejudice to the rights of the parties to reopen the proceedings for good cause shown for the entry of any stipulation, order, judgment, or for any other purpose required to obtain a final determination of the litigation. The Court retains complete jurisdiction to vacate this order and to reopen the action upon cause shown within thirty (30) days that settlement has not been completed and further litigation is necessary.

ORDERED this 3/5th day of January, 1991.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT
STATE OF OKLAHOMA

FILED

JAN 31 1991

Jack C. Silver, Clerk
U.S. DISTRICT COURT

MARY ELLEN WARD,

Plaintiff,

vs.


H. J. MORELAND, INDIVIDUALLY;
AND H.J. MORELAND, M.D., INC.,

Defendant.

CASE NO. 90-C-337-E

DISMISSAL

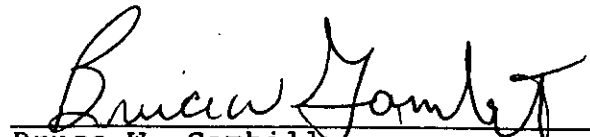
Comes now, Mary Ellen Ward, plaintiff herein and dismisses, in the interest of justice, the above and forgoing action, after completion of discovery.


Bruce W. Gambill OBA # 3222
Attorney for Plaintiff
KELLY & GAMBILL
P.O. Box 329
Pawhuska, Oklahoma 74056
918-287-4185

CERTIFICATE OF MAILING

I, Bruce W. Gambill, do hereby certify that on the 30th day of January, 1991, I duly mailed a true and correct copy of the foregoing instrument with postage prepaid thereon to:

William A. Fiasco, OBA #3402
525 South Main, Suite 1500
Tulsa, Oklahoma 74103


Bruce W. Gambill

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 30 1991

WILLIAM C. SILVER, CLERK
U.S. DISTRICT COURT

DENNIS A. SKINNER,

Plaintiff,

vs.

TOTAL PETROLEUM, INC.,

Defendant.

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}
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}

No. 82-C-1118-C

ORDER

The Court has considered plaintiff's supplemental application for attorney fees and expenses representing time expended by plaintiff's attorney since his previous submission on September 14, 1990.

The Court finds that the request is appropriate and represents time reasonably spent seeking defendant's compliance with the Court's order entered on August 10, 1990.

The Court has also considered plaintiff's application for the Court to reconsider the amount of attorney fees awarded on October 18, 1990. The Court finds that the plaintiff has failed to raise any issue in his motion to reconsider that was not previously considered by the Court. Accordingly the motion to reconsider is denied.


WHEREFORE, IT IS THE ORDER of the Court that plaintiff is awarded the sum of \$8,400.00 in supplemental attorney fees and

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expenses in the sum of \$258.00 against defendant Total Petroleum, Inc.

IT IS THE FURTHER ORDER of the Court that plaintiff's application to reconsider the amount of attorney fees awarded on October 18, 1990 is hereby DENIED.

IT IS SO ORDERED this 30th day of January, 1991.


H. DALE COOK
Chief Judge, U. S. District Court

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JAN 30 1981

JACK C. SILVER, CLERK
U.S. DISTRICT COURT

GLENPOOL UTILITY SERVICES
AUTHORITY, a Utility Trust,

Plaintiff,

vs.

No. 84-C-415-C

CREEK COUNTY RURAL WATER
DISTRICT NO. 2, and JODY
SWEETIN, an individual,

Defendants,

and

CREEK COUNTY RURAL WATER
DISTRICT NO. 2,

Third Party Plaintiff,

vs.

FARMERS HOME ADMINISTRATION,
UNITED STATES DEPARTMENT OF
AGRICULTURE, UNITED STATES
OF AMERICA,

Third Party Defendants.

ORDER

Plaintiff brought this action seeking a declaratory judgment as against defendant Creek County Rural Water District No. 2 (District No. 2), adjudging plaintiff to be the holder of the exclusive right to furnish water to an area of land known as Eden South, annexed by the City of Glenpool in July of 1983. Defendant District No. 2 counterclaimed for essentially the same relief and

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for an injunction. Following a bench trial, the Court denied both parties' request for declaratory relief.

On appeal, the United States Court of Appeals for the Tenth Circuit reversed in part (concluding that District No. 2 did have an exclusive right) and remanded for further proceedings. Glenpool Utility Serv. v. Water Dist. No. 2, 861 F.2d 1211 (10th Cir. 1988), cert. denied, 109 S.Ct. 2068 (1989). The plaintiff has submitted a proposed journal entry of judgment which simply declares that District No. 2 has the right to provide water service and that plaintiff shall not intrude upon the furnishing of water services to the area. District No. 2 has filed a motion for further relief pursuant to 28 U.S.C. §2202.

The Court held a hearing on August 16, 1989 and requested the parties to attempt a voluntary settlement. The parties have failed to reach agreement. Accordingly, the Court now enters its Order.

Initially, District No. 2 asks the Court to impose a constructive trust on the water lines constructed by Jody Sweetin, arguing that if it had been the water provider for Eden South, as it should have been, the lines would now belong to District No. 2 rather than to Glenpool. The Tenth Circuit Court of Appeals has recently articulated the following principles:

A constructive trust is an equitable remedy that is imposed for the recovery of wrongfully-held property.

The Supreme Court of Oklahoma has explained the conditions for imposing a constructive trust as follows:

The primary reason for imposing a constructive trust is to avoid unjust enrichment. It is imposed against one who "by fraud, actual or constructive, by [duress] or abuse of confidence, by commission of wrong, or by any form of unconscionable conduct, artifice, concealment,

or questionable means, or who in any way against equity and good conscience, either [has] obtained or holds the legal right to property which he ought not, in equity and good conscience, hold and enjoy."

Mere "unfairness" in allowing the holder of the property to retain the property is *not* sufficient to justify imposition of a constructive trust. There must also be "active wrongdoing" by the person holding the property. The evidence of wrongdoing "must be clear, unequivocal, and decisive beyond a reasonable doubt A mere preponderance of the evidence is not sufficient to establish a constructive trust but it must be established by evidence which is clear, definite, unequivocal and satisfactory, or such as to leave but one conclusion, or as to leave no reasonable doubt as to the existence of the trust."

In re Seneca Oil Co., 906 F.2d 1445, 1450 (10th Cir. 1990) (citations omitted).

The Court has concluded that District No. 2 has failed to meet its burden of proof. The only evidence before the Court is not of "wrongdoing" by Glenpool, but rather a bona fide dispute about exclusivity. Glenpool should not be penalized by the imposition of a constructive trust merely for its attempt to assert through litigation its perceived right.

Second, District No. 2 requests an award of damages, arguing that if it had been serving Eden South, it would have realized profits from the sale of water and water taps. Glenpool responds that District No. 2 is a "non-profit organization" and that any profits from the seven to eight residences would be de minimus. In that District No. 2 has made no showing of profits, the request is denied.

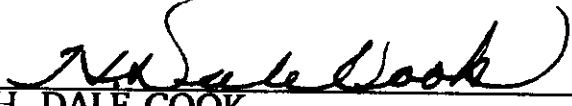
Finally, District No. 2 seeks an award of attorney fees under 28 U.S.C. §2202. In Security Ins. Co. v. White, 236 F.2d 215 (10th Cir. 1956) the court stated that the statute permitted a discretionary award of attorney fees. However, that case has been interpreted to be limited to an insurer-insured situation and the insurer's failure to comply with its duty to defend under the

policy. See Mercantile Nat. Bank v. Bradford Tr. Co., 850 F.2d 215, 218-19 n.9 (5th Cir. 1988). This Court finds White inapplicable, and even if it were applicable, in view of the Court's other rulings, the Court would deny fees.

It is the Order of the Court that the motion of defendant Creek County Rural Water District No. 2 for further relief pursuant to 28 U.S.C. §2202 is hereby denied.

It is the further Order of the Court that the parties are hereby granted fifteen days from the date of this Order to submit proposed Judgments, which should reflect the mandate of the Tenth Circuit, and the fact that the water lines remain plaintiff's property.

IT IS SO ORDERED this 30th day of January, 1991.


H. DALE COOK
Chief Judge, U. S. District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

STEVEN SMITH,

Plaintiff,

vs.

AMERICAN NATIONAL RED CROSS,
their agents, servants, and employees,
and THE RED CROSS CLUB OF TULSA,
OKLAHOMA, JOHN DOE, SAMUEL DOE,
and WILLIAM DOE, Directors and Officers
of THE RED CROSS CLUB OF TULSA,
OKLAHOMA,

Defendants.

Civil Action No. 91-C-008-E

F I L E D

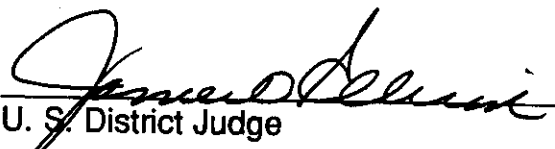
JAN 30 1991

Jack C. Silver, Clerk
U.S. DISTRICT COURT

ORDER

NOW on this 30th day of January, 1991, the Court, after being duly advised in the premises, finds that American National Red Cross's Application to Transfer should be granted.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the instant action is immediately transferred to the United States District Court in and for the Eastern District of Oklahoma.


U. S. District Judge

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

JAN 30 1991

LINDA SUE EDWARDS and
MARY ANN EDWARDS,

Jack C. Silver, Clerk
U.S. DISTRICT COURT

)
)
)
Plaintiffs,)

v.

)
)
)
No. 90-C-0063-B

)
)
)
ASSOCIATED WHOLESALE GROCERS, INC.,
a Missouri corporation, and
DELBERT LEE HASLER,

)
)
)
Defendants.)

ORDER OF DISMISSAL WITH PREJUDICE

NOW ON this 30th day of Jan, 1991, it appearing to the Court that this matter has been compromised and settled, this case is herewith dismissed with prejudice to the refiling of a future action.


United States District Judge

FILED

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JAN 30 1991

Jack C. Silver, Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAMES B. LOGAN and
BETTY E. LOGAN,

Defendants.

CIVIL ACTION NO. 90-C-415-B

ORDER

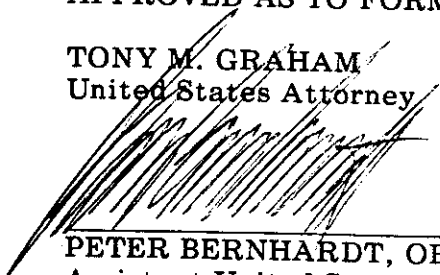
This matter comes before the Court this 30th day of Jan, 1991. It appearing that defendant has complied with the Internal Revenue Service Summonses, it is ORDERED that this case be administratively closed.


THOMAS R. BRETT

United States District Judge

APPROVED AS TO FORM AND CONTENT:

TONY M. GRAHAM
United States Attorney


PETER BERNHARDT, OBA #741
Assistant United States Attorney
3600 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA** **I L E D**

GLENN SUPPLY CO., INC., an
Oklahoma corporation,

Plaintiff,

vs.

DELMAR NIGHTENGALE, NKS OIL,
INC., and UNIVERSAL RESOURCES
CORP.,

Defendants.

JAN 30 1991

Jack C. Silver, Clerk
U.S. DISTRICT COURT

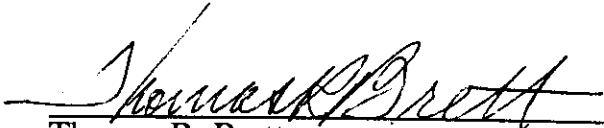
Case No. 90-C-609-B

ORDER OF DISMISSAL

Upon consideration of the Motion of Plaintiff for Voluntary Dismissal of this case without prejudice, the Court finds that the Motion should be granted.

IT IS THEREFORE ORDERED, that this case be and hereby is dismissed, without prejudice, with all parties to pay their own costs and expenses.

DATED this th 30 day of Jan., 1991.


Thomas R. Brett

United States District Judge

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2/1

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA

FILED
JAN 30 1991

Jack C. Silver, Clerk
U.S. DISTRICT COURT

DRILLING EQUIPMENT SUPPLY, INC.)
)
Plaintiff,)
)
vs.)
)
MOBILE EQUIPMENT SERVICE, INC.;)
and DANTE L. DECECCO,)
)
Defendant.)

Case No. 90-C-631-B ✓

ENTRY OF JUDGMENT

On this 30th day of Jan., 1991, this
matter came before the court upon the Stipulation of Judgment
filed by the Plaintiff, Drilling Equipment Supply, Inc., and
Defendants, Mobile Equipment Supply, Inc. and Dante L. Dececco.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that judg-
ment against Defendants in the amount of \$94,326.73 shall be
entered in favor of Plaintiff.

ORDERED this 30th day of Jan., 1991.

Shawna R. Brett
JUDGE OF THE DISTRICT COURT

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

F I L E D

UNITED STATES OF AMERICA,
Plaintiff,

vs.

WALTER O. HOOVER, III; LISA M.
HOOVER; COUNTY TREASURER,
Creek County, Oklahoma; and
BOARD OF COUNTY COMMISSIONERS,
Creek County, Oklahoma,

Defendants.

JAN 30 1991

Jack C. Silver, Clerk
U.S. DISTRICT COURT

CIVIL ACTION NO. 90-C-833-E

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 30th day
of Jan, 1990. The Plaintiff appears by Tony M.
Graham, United States Attorney for the Northern District of
Oklahoma, through Kathleen Bliss Adams, Assistant United States
Attorney; the Defendants, County Treasurer, Creek County,
Oklahoma, and Board of County Commissioners, Creek County,
Oklahoma, appear by Wesley R. Thompson, Assistant District
Attorney, Creek County, Oklahoma; and the Defendants, Walter O.
Hoover, III, and Lisa M. Hoover, appear not, but make default.

The Court, being fully advised and having examined the
court file, finds that the Defendant, Walter O. Hoover, III,
acknowledged receipt of Summons and Complaint on October 6, 1990;
that the Defendant, Lisa M. Hoover, acknowledged receipt of
Summons and Complaint on October 6, 1990; that Defendant, County
Treasurer, Creek County, Oklahoma, acknowledged receipt of
Summons and Complaint on October 1, 1990; and that Defendant,
Board of County Commissioners, Creek County, Oklahoma,

acknowledged receipt of Summons and Complaint on September 27, 1990.

It appears that the Defendants, County Treasurer, Creek County, Oklahoma, and Board of County Commissioners, Creek County, Oklahoma, filed their Answer on October 2, 1990; and that the Defendants, Walter O. Hoover, III, and Lisa M. Hoover, have failed to answer and their default has therefore been entered by the Clerk of this Court.

The Court further finds that this is a suit based upon a certain mortgage note and for foreclosure of a mortgage securing said mortgage note upon the following described real property located in Creek County, Oklahoma, within the Northern Judicial District of Oklahoma:

The South Half (S/2) of Lots Nine (9), Ten (10), Eleven (11), and Twelve (12), in Block Twelve (12), in WHEELER'S FIRST ADDITION to Drumright, in Creek County, State of Oklahoma, according to the recorded plat thereof.

"Subject, however, to all valid outstanding easements, rights-of way, mineral leases, mineral reservations and mineral conveyances of record."

The Court further finds that on October 22, 1985, the Defendants, Walter O. Hoover, III, and Lisa M. Hoover, executed and delivered to the United States of America, acting through the Farmers Home Administration, their mortgage note in the amount of \$42,000.00, payable in monthly installments, with interest thereon at the rate of 10.625 percent (10.625%) per annum.

The Court further finds that as security for the payment of the above-described note, the Defendants, Walter O.

Hoover, III, and Lisa M. Hoover, executed and delivered to the United States of America, acting through the Farmers Home Administration, a mortgage dated October 22, 1985, covering the above-described property. Said mortgage was recorded on October 23, 1985, in Book 195, Page 1792, in the records of Creek County, Oklahoma.

The Court further finds that on October 22, 1985, the Defendants, Walter O. Hoover, III, and Lisa M. Hoover, executed and delivered to the United States of America, acting through the Farmers Home Administration, an Interest Credit Agreement pursuant to which the interest rate on the above-described note and mortgage was reduced.

The Court further finds that on August 6, 1986, the Defendants, Walter O. Hoover, III, and Lisa M. Hoover, executed and delivered to the United States of America, acting through the Farmers Home Administration, an Interest Credit Agreement pursuant to which the interest rate on the above-described note and mortgage was reduced.

The Court further finds that on August 13, 1987, the Defendants, Walter O. Hoover, III, and Lisa M. Hoover, executed and delivered to the United States of America, acting through the Farmers Home Administration, an Interest Credit Agreement pursuant to which the interest rate on the above-described note and mortgage was reduced.

The Court further finds that on August 25, 1988, the Defendants, Walter O. Hoover, III, and Lisa M. Hoover, executed and delivered to the United States of America, acting through the

Farmers Home Administration, an Interest Credit Agreement pursuant to which the interest rate on the above-described note and mortgage was reduced.

The Court further finds that the Defendants, Walter O. Hoover, III, and Lisa M. Hoover, made default under the terms of the aforesaid note and mortgage by reason of their failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendants, Walter O. Hoover, III, and Lisa M. Hoover, are indebted to the Plaintiff in the principal sum of \$40,109.47, plus accrued interest in the amount of \$2,739.40 as of April 16, 1990, plus interest accruing thereafter at the rate of 10.625 percent per annum or \$11.6757 per day until judgment, plus interest thereafter at the legal rate until fully paid, and the further sum due and owing under the interest credit agreements of \$8,062.96, plus interest on that sum at the legal rate from judgment until paid, and the costs of this action in the amount of \$28.00 (\$20.00 docket fees, \$8.00 fee for recording Notice of Lis Pendens).

The Court further finds that the Defendants, County Treasurer and Board of County Commissioners, Creek County, Oklahoma, claim no right, title or interest in the subject real property.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendants, Walter O. Hoover, III, and Lisa M. Hoover, in the principal sum of \$40,109.47, plus accrued interest in the amount of \$2,739.40 as of April 16, 1990, plus interest accruing thereafter at the

rate of 10.625 percent per annum or \$11.6757 per day until judgment, plus interest thereafter at the current legal rate of 6.62 percent per annum until fully paid, and the further sum due and owing ounder the interest credit agreements of \$8,062.96, plus interest on that sum at the legal rate from judgment until paid, plus the costs of this action in the amount of \$28.00 (\$20.00 docket fees, \$8.00 fee for recording Notice of Lis Pendens), plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, County Treasurer and Board of County Commissioners, Creek County, Oklahoma, have no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendants, Walter O. Hoover, III and Lisa M. Hoover, to satisfy the money judgment of the Plaintiff herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisement the real property involved herein and apply the proceeds of the sale as follows:

First:

In payment of the costs of this action accrued and accruing incurred by the Plaintiff, including the costs of sale of said real property;

Second:

In payment of the judgment rendered herein
in favor of the Plaintiff;

The surplus from said sale, if any, shall be deposited with the
Clerk of the Court to await further Order of the Court.

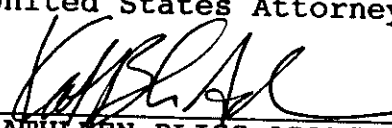
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from
and after the sale of the above-described real property, under
and by virtue of this judgment and decree, all of the Defendants
and all persons claiming under them since the filing of the
Complaint, be and they are forever barred and foreclosed of any
right, title, interest or claim in or to the subject real
property or any part thereof.

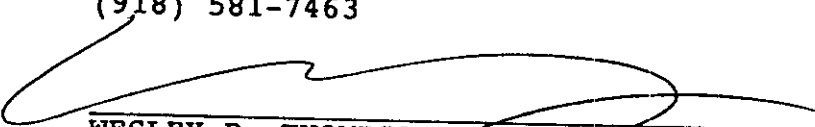
S/ JAMES O. ELISON

UNITED STATES DISTRICT JUDGE

APPROVED:

TONY M. GRAHAM
United States Attorney


KATHLEEN BLISS ADAMS, OBA #13625
Assistant United States Attorney
3600 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463


WESLEY R. THOMPSON, OBA #8993
Assistant District Attorney
Attorney for Defendants,
County Treasurer and
Board of County Commissioners,
Creek County, Oklahoma

Judgment of Foreclosure
Civil Action No. 90-C-833-E
KBA/esr

~~United States District Court~~
~~Northern District of Oklahoma~~ SS
I hereby certify that the foregoing
is a true copy of the original on file
in this Court.

~~Jack C. Silver, Clerk~~

~~Deputy~~

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

VERDA BERGMAN,

Plaintiff,

vs.

W.H. BERGMAN and BETTY JANE
BERGMAN, Husband and Wife;
UNITED STATES OF AMERICA,
ex rel., FARMERS HOME
ADMINISTRATION, UNITED STATES
DEPARTMENT OF AGRICULTURE,

Defendants,

and

UNITED STATES OF AMERICA on
behalf of the Farmers Home
Administration,

Third-Party Plaintiff,

vs.

COUNTY TREASURER, Mayes County,
Oklahoma; and BOARD OF COUNTY
COMMISSIONERS, Mayes County,
Oklahoma,

Third-Party Defendants.

FILED

JAN 30 1991

Jack C. Silver, Clerk
U.S. DISTRICT COURT

Civil Action No. 90-C-761-E

Case No. C-90-357

Mayes County District Court

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 30th day
of Jan., 1990. The Third-Party Plaintiff appears by
Tony M. Graham, United States Attorney for the Northern District
of Oklahoma, through Phil Pinnell, Assistant United States
Attorney; the Plaintiff, Verda Bergman, appears by her attorney,
Jerrold R. Dennis; the Defendants, W.H. Bergman and Betty Jane
Bergman, appear by their attorney, Phyllis A. DeWitt; and the
Third-Party Defendants, County Treasurer, Mayes County, Oklahoma,
and Board of County Commissioners, Mayes County, Oklahoma, appear

by Barry A. Farbro, Assistant District Attorney, Mayes County, Oklahoma.

The Court, being fully advised and having examined the court file, finds that the Plaintiff, Verda Bergman, acknowledged receipt of Summons and Third-Party Complaint on September 11, 1990; that the Defendant, W.H. Bergman, acknowledged receipt of Summons and Third-Party Complaint on September 27, 1990; that the Defendant, Betty Jane Bergman, acknowledged receipt of Summons and Third-Party Complaint on September 27, 1990; that Third-Party Defendant, County Treasurer, Mayes County, Oklahoma, acknowledged receipt of Summons and Third-Party Complaint on September 19, 1990; and that Third-Party Defendant, Board of County Commissioners, Mayes County, Oklahoma, acknowledged receipt of Summons and Third-Party Complaint on September 11, 1990.

It appears that the Plaintiff, Verda Bergman, filed her Answer on September 13, 1990; that the Defendants, W.H. Bergman and Betty Jane Bergman, filed their Answer on October 12, 1990; and that the Third-Party Defendants, County Treasurer, Mayes County, Oklahoma, and Board of County Commissioners, Mayes County, Oklahoma, filed their Answer and Cross-Petition on September 18, 1990.

The Court further finds that the Plaintiff's Petition in Foreclosure was initially filed in the District Court for Mayes County, State of Oklahoma, on August 15, 1990, Case

No. C-90-357, and was effectively removed to this Court on the 4th day of September, 1990.

The Court further finds that the Defendant, W.H. Bergman and William H. Bergman are one and the same person.

The Court further finds that this is a suit based upon a certain mortgage note and for foreclosure of a mortgage securing said mortgage note upon the following described real property located in Mayes County, Oklahoma, within the Northern Judicial District of Oklahoma:

The Southwest Quarter of the Southeast Quarter of the Northeast Quarter and the South Half of the Southwest Quarter of the Northeast Quarter and the West Half of the Southeast Quarter and the Southwest Quarter of Section Twenty-one (21), Township Twenty-two (22) North, Range Twenty (20) East of the Indian Base and Meridian.

The Court further finds that on or about the 23rd day of June, 1977, the Defendants, W. H. Bergman and Betty Jane Bergman, executed and delivered to the Plaintiff, Verda Bergman, a certain promissory note for the principal sum of \$97,000.00, with interest thereon at the rate of 6% per annum until maturity, and at the rate of 10% per annum after maturity, with principal and interest payable in equal yearly payments of \$3,000.00, beginning July 1, 1978, and continuing on the 1st day of July for each year thereafter, with the balance due in full on or before July 1, 1987.

The Court further finds that as security for the above-mentioned promissory note, the Defendants, W.H. Bergman and Betty

Jane Bergman, made, executed and delivered to Plaintiff a real estate mortgage covering the above-described property. Said mortgage was recorded in Book 539 at Page 83 in the office of the County Clerk in Mayes County, Oklahoma, on June 24, 1977, after the required mortgage tax was paid.

The Court further finds that on July 21, 1981, the Defendants, William H. Bergman and Betty J. Bergman, executed and delivered to the United States of America, acting on behalf of Farmers Home Administration, a promissory note in the amount of \$72,000.00, payable in yearly installments, with interest thereon at the rate of 13.25 percent (13.25%) per annum.

The Court further finds that on July 21, 1981, the Defendants, William H. Bergman and Betty J. Bergman, executed and delivered to the United States of America, acting on behalf of Farmers Home Administration, a promissory note in the amount of \$49,260.00, payable in yearly installments, with interest thereon at the rate of 5 percent (5%) per annum.

The Court further finds that as security for the payment of the above-described notes, the Defendants, William H. Bergman and Betty J. Bergman, executed and delivered to the United States of America, acting on behalf of Farmers Home Administration, a second mortgage dated July 21, 1981, covering the above-described property. Said mortgage was recorded on July 21, 1981, in Book 591, Page 146, in the records of Mayes County, Oklahoma.

The Court further finds that on February 18, 1983, the Defendants, William H. Bergman and Betty J. Bergman, executed and delivered to the United States of America, acting on behalf of Farmers Home Administration, a reamortization promissory note in the amount of \$82,760.13, payable in yearly installments, with interest thereon at the rate of 13 percent (13%) per annum.

The Court further finds that on April 8, 1983, the Defendants, William H. Bergman and Betty J. Bergman, executed and delivered to the United States of America, acting on behalf of Farmers Home Administration, a reamortization promissory note in the amount of \$52,369.32, payable in yearly installments, with interest thereon at the rate of 5 percent (5%) per annum.

The Court further finds that as security for the payment of the above-described notes, the Defendants, William H. Bergman and Betty J. Bergman, executed and delivered to the United States of America, acting on behalf of Farmers Home Administration, a second mortgage dated May 25, 1983, covering the above-described property. Said mortgage was recorded on May 25, 1983, in Book 611, Page 577, in the records of Mayes County, Oklahoma. A "corrected" second mortgage was recorded on May 25, 1983 in Book 635 at Page 749 in the records of Mayes County, Oklahoma.

The Court further finds that on November 6, 1984, the Defendants, William H. Bergman and Betty J. Bergman, executed and delivered to the United States of America, acting on behalf of

Farmers Home Administration, a promissory note in the amount of \$31,180.00, payable in yearly installments, with interest thereon at the rate of 5 percent (5%) per annum.

The Court further finds that as security for the payment of all of the above-described notes, the Defendants, William H. Bergman and Betty J. Bergman, executed and delivered to the United States of America, acting on behalf of Farmers Home Administration, a mortgage dated November 6, 1984, covering the above-described property. Said mortgage was recorded on November 7, 1984, in Book 635, Page 753, in the records of Mayes County, Oklahoma.

The Court further finds that the Defendants, William H. Bergman and Betty J. Bergman, made default under the terms of the aforesaid notes and mortgages by reason of their failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendants, William H. Bergman and Betty J. Bergman, are indebted to the Third-Party Plaintiff in the principal sum of \$161,529.95, plus accrued interest in the amount of \$79,989.09 as of January 2, 1990, plus interest accruing thereafter at \$40.2939 per day until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action in the amount of \$30.00 (\$20.00 docket fees, \$10.00 fee for recording Notice of Lis Pendens).

The Court further finds that the Plaintiff, Verda Bergman, has a lien on the property which is the subject matter

of this action by virtue of a promissory note and first mortgage made, executed and delivered by W.H. Bergman and Betty Jane Bergman, and filed of record in the office of the County Clerk in Mayes County, Oklahoma, on June 24, 1977 in Book 539 at Page 83, which is a prior and superior mortgage lien than the mortgage lien of the Farmers Home Administration.

The Court further finds that the Third-Party Defendants, County Treasurer and Board of County Commissioners, Mayes County, Oklahoma, claim no right, title or interest in the subject real property.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff, Verda Bergman, have and recover judgment in rem and in personam against the Defendants, William H. Bergman and Betty J. Bergman, in the principal sum of \$79,000.00, plus interest accrued thereon through January 1, 1990 of \$40,541.68, and interest accruing thereafter at the rate of 10% per annum, plus attorney fees in the amount of \$4,000.00, plus \$110.00 in court costs. Plaintiff is entitled to the foreclosure of the mortgage on said premises to satisfy said indebtedness.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Third-Party Plaintiff have and recover judgment in rem and in personam against the Defendants, William H. Bergman and Betty J. Bergman, in the principal sum of \$161,529.95, plus accrued interest in the amount of \$79,989.09 as of January 2, 1990, plus interest accruing thereafter at \$40.2939 per day until judgment,

plus interest thereafter at the current legal rate of 6.62 percent per annum until paid, plus the costs of this action in the amount of \$30.00 (\$20.00 docket fees, \$10.00 fee for recording Notice of Lis Pendens), plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Third-Party Defendants, County Treasurer and Board of County Commissioners, Mayes County, Oklahoma, have no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendants, William H. Bergman and Betty J. Bergman, to satisfy the money judgment of the Plaintiff and Third-Party Plaintiff herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisement the real property involved herein and apply the proceeds of the sale as follows:

First:

In payment of the costs of this action accrued and accruing incurred by the Third-Party Plaintiff, including the costs of sale of said real property;

Second:

In payment of the judgment rendered here in favor of the Plaintiff;

Third:

In payment of the judgment rendered herein in favor of the Third Party Plaintiff;

The surplus from said sale, if any, shall be deposited with the Clerk of the Court to await further Order of the Court.

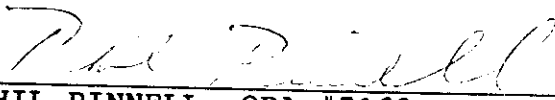
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described real property, under and by virtue of this judgment and decree, all of the parties and all persons claiming under them since the filing of the Complaint, be and they are forever barred and foreclosed of any right, title, interest or claim in or to the subject real property or any part thereof, except that the United States' right of redemption pursuant to 28 U.S.C. § 2410(c) shall be recognized.

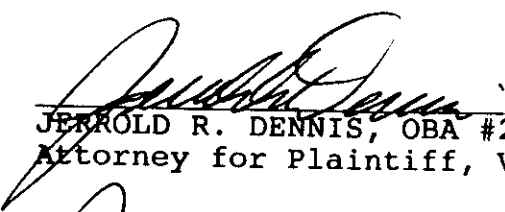
S/ JAMES O. ELSON

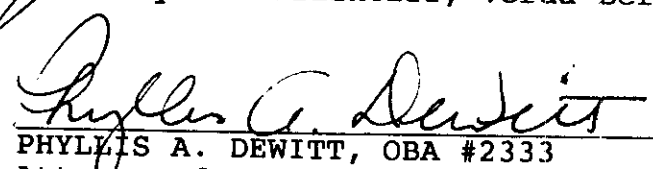
UNITED STATES DISTRICT JUDGE

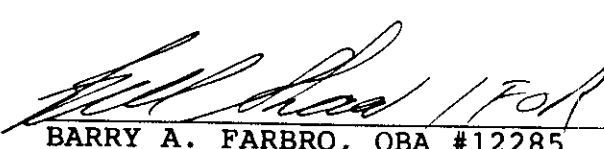
APPROVED:

TONY M. GRAHAM
United States Attorney


PHIL PINNELL, OBA #7169
Assistant United States Attorney
3600 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463


JERROLD R. DENNIS, OBA #2305
Attorney for Plaintiff, Verda Bergman


PHYLLIS A. DEWITT, OBA #2333
Attorney for Defendants,
W.H. Bergman and Betty Jane Bergman

 FOR OBA 10/27
BARRY A. FARBRO, OBA #12285
Assistant District Attorney
Attorney for Third-Party Defendants,
County Treasurer and
Board of County Commissioners,
Mayes County, Oklahoma

Judgment of Foreclosure
Civil Action No. 90-C-761-E

PP/esr

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

JAN 30 1991 *JS*

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
DAN ADCOCK,)
)
Defendant.)

Jack C. Silver, Clerk
U.S. DISTRICT COURT

Case No. 90-C-1015E ✓

CONSENT ORDER ENFORCING ADMINISTRATIVE
INVESTIGATIVE SUBPOENA DUCES TECUM

NOW on this 30th day of January, 1991
there comes on for consideration the Complaint for Enforcement of
Administrative Investigative Subpoena Duces Tecum ("Subpoena")
filed by the United States of America on behalf of the Packers &
Stockyards Administration and the Department of Agriculture against
Dan Adcock ("Adcock"). The Court finds that the parties have
reached an agreement for the production of the documents requested
by the Subpoena ("Requested Documents") that is reasonable and
should be adopted and approved by the Court in this Order. The
Court finds that such agreement between the parties is as follows:

1. On not less than 48 hours notice, during normal business
hours, at the office of the United States Attorney in the Northern
District of Oklahoma, Adcock shall produce the originals and one
copy of the Requested Documents. At such meeting Adcock may be
present, and may be accompanied by counsel, and if present, shall
be afforded the opportunity to discuss with the representatives of
the Department of Agriculture both the Requested Documents and the
transactions reflected thereby and related thereto. Such
representatives may make additional copies if they so desire. At

the conclusion of such meeting Adcock will be permitted to retain the originals of the Requested Documents.

2. In agreeing to produce the requested documents, Adcock is not conceding that his livestock operations are subject to the Packers & Stockyards Act, 7 U.S. §§ 181 et seq., and expressly reserves the right to challenge, dispute and deny any such characterization by the United States, the Department of Agriculture, or the Packers & Stockyards Administration.

3. Adcock further expressly reserves any rights that he may have under the Fifth Amendment to the United States Constitution, and he is not to be deemed to be waiving any such rights by his agreement to produce the requested documents and answer questions with respect thereto, provided that no immunity from prosecution shall follow from production of the Requested Documents.

4. If the Department of Agriculture or the Packers & Stockyards Administration decide to refer any matter to the United States Department of Justice for possible criminal prosecution of Adcock, the Department of Agriculture and the Packers & Stockyards Administration agree to notify Adcock that such referral has been made, concurrently with, but in no event later than one (1) week after, such referral, as well as the location of the office to which such referral is made.

5. Each party will bear their own costs and attorneys fees in connection with this matter.

IT IS THEREFORE ORDERED that the Defendant, Dan Adcock, shall produce the requested documents identified and described in the

Administrative Subpoena attached to the Complaint filed herein under the following terms, conditions and agreements:

1. On not less than 48 hours notice, during normal business hours, at the office of the United States Attorney in the Northern District of Oklahoma, Adcock shall produce the originals and one copy of the Requested Documents. At such meeting Adcock may be present, and may be accompanied by counsel, and if present, shall be afforded the opportunity to discuss with the representatives of the Department of Agriculture both the Requested Documents and the transactions reflected thereby and related thereto. Such representatives may make additional copies if they so desire. At the conclusion of such meeting Adcock will be permitted to retain the originals of the Requested Documents.

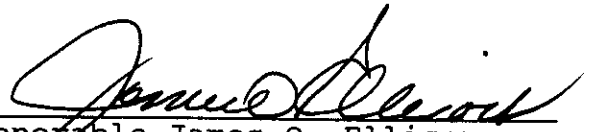
2. In agreeing to produce the requested documents, Adcock is not conceding that his livestock operations are subject to the Packers & Stockyards Act, 7 U.S. §§ 181 et seq., and expressly reserves the right to challenge, dispute and deny any such characterization by the United States, the Department of Agriculture, or the Packers & Stockyards Administration.

3. Adcock further expressly reserves any rights that he may have under the Fifth Amendment to the United States Constitution, and he is not to be deemed to be waiving any such rights by his agreement to produce the requested documents and answer questions with respect thereto, provided that no immunity from prosecution shall follow from production of the Requested Documents.

4. If the Department of Agriculture or the Packers &


Stockyards Administration decide to refer any matter to the United States Department of Justice for possible criminal prosecution of Adcock, the Department of Agriculture and the Packers & Stockyards Administration agree to notify Adcock that such referral has been made, concurrently with, but in no event later than one (1) week after, such referral, as well as the location of the office to which such referral is made.

5. Each party will bear their own costs and attorneys fees in connection with this matter.


Honorable James O. Ellison
United States District Judge


Approved as to Form and Content:

TONY M. GRAHAM
UNITED STATES ATTORNEY

By: 
Phil Pinnell, OBA #7169
Assistant United States Attorney
3600 United States Courthouse
333 West Fourth Street
Tulsa, Oklahoma 74103
(918) 581-7463

FOR THE UNITED STATES

COMFORT, LIPE & GREEN, P.C.

By: 
Timothy T. Trump, OBA #10684
2100 MidContinent Tower
401 South Boston Avenue
Tulsa, Oklahoma 74103
(918) 599-9400

and

John L. Arrington, Jr., OBA #342
Gerald L. Hilsher, OBA #4218
Jean Ann Hudson, OBA #13698
HUFFMAN, ARRINGTON, KIHLE, GABERINO & DUNN
A Professional Corporation
1000 ONEOK Plaza
Tulsa, Oklahoma 74103
(918) 585-8141

FOR THE DEFENDANT DAN ADCOCK

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSE FRIAS a/k/a JOSE M. FRIAS;
DONALD P. HAVENAR d/b/a SOONER
BONDING AGENCY, INC., d/b/a THE
BOOTLEGGER CLUB & MAGOOS LOUNGE
a/k/a DON HAVENAR; INDIANA
LUMBERMENS MUTUAL INSURANCE
COMPANY; TERRY McDONALD; GLEN
McDONALD; STATE OF OKLAHOMA
ex rel. OKLAHOMA EMPLOYMENT
SECURITY COMMISSION; COUNTY
TREASURER, Tulsa County,
Oklahoma; and BOARD OF COUNTY
COMMISSIONERS, Tulsa County,
Oklahoma,

Defendants.

FILED

JAN 30 1991

Jack C. Silver, Clerk
U.S. DISTRICT COURT

CIVIL ACTION NO. 90-C-0076-E

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 30th day
of January, 1990. The Plaintiff appears by Tony M.
Graham, United States Attorney for the Northern District of
Oklahoma, through Kathleen Bliss Adams, Assistant United States
Attorney; the Defendant, Indian Lumbermens Mutual Insurance
Company, appears not, having previously filed its Disclaimer; the
Defendant, State of Oklahoma ex rel. Oklahoma Employment Security
Commission, appears by its attorney, J.W. Stevenson; the
Defendants, County Treasurer, Tulsa County, Oklahoma, and Board
of County Commissioners, Tulsa County, Oklahoma, appear by J.
Dennis Semler, Assistant District Attorney, Tulsa County,
Oklahoma; and the Defendants, Donald P. Havenar d/b/a Sooner
Bonding Agency, Inc., d/b/a The Bootlegger Club & Magoos Lounge

a/k/a Don Havenar, Jose Frias a/k/a Jose M. Frias, Terry McDonald and Glen McDonald, appear not, but make default.

The Court, being fully advised and having examined the court file, finds that the Defendant, State of Oklahoma ex rel. Oklahoma Employment Security Commission, acknowledged receipt of Summons and Complaint on February 5, 1990; that the Defendant, Donald P. Havenar d/b/a Sooner Bonding Agency, Inc., d/b/a The Bootlegger Club & Magoos Lounge a/k/a Don Havenar, was served with Summons and Complaint on July 27, 1990; Indiana Lumbermens Mutual Insurance Company was served with Summons and Complaint on or about August 2, 1990; that Defendant, County Treasurer, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on February 6, 1990; and that Defendant, Board of County Commissioners, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on February 6, 1990.

The Court further finds that the Defendants, Jose Frias a/k/a Jose M. Frias, Terry McDonald and Glen McDonald, were served by publishing notice of this action in the Tulsa Daily Business Journal & Legal Record of Tulsa, Oklahoma, a newspaper of general circulation in Tulsa County, Oklahoma, once a week for six (6) consecutive weeks beginning October 5, 1990, and continuing to November 9, 1990, as more fully appears from the verified proof of publication duly filed herein; and that this action is one in which service by publication is authorized by 12 O.S. Section 2004(c)(3)(c). Counsel for the Plaintiff does not know and with due diligence cannot ascertain the whereabouts

of the Defendants, Jose Frias a/k/a Jose M. Frias, Terry McDonald and Glen McDonald and service cannot be made upon said Defendants within the Northern Judicial District of Oklahoma or the State of Oklahoma by any other method, or upon said Defendants without the Northern Judicial District of Oklahoma or the State of Oklahoma by any other method, as more fully appears from the evidentiary affidavit of a bonded abstractor filed herein with respect to the last known addresses of the Defendants, Jose Frias a/k/a Jose M. Frias, Terry McDonald and Glen McDonald. The Court conducted an inquiry into the sufficiency of the service by publication to comply with due process of law and based upon the evidence presented together with affidavit and documentary evidence finds that the Plaintiff, United States of America, acting on behalf of the Secretary of Veterans Affairs, and its attorneys, Tony M. Graham, United States Attorney for the Northern District of Oklahoma, through Kathleen Bliss Adams, Assistant United States Attorney, fully exercised due diligence in ascertaining the true name and identity of the parties served by publication with respect to their present or last known places of residence and/or mailing addresses. The Court accordingly approves and confirms that the service by publication is sufficient to confer jurisdiction upon this Court to enter the relief sought by the Plaintiff, both as to subject matter and the Defendants served by publication.

It appears that the Defendant, County Treasurer, Tulsa County, Oklahoma, filed his Answer on February 26, 1990; that the

Defendant, Board of County Commissioners, Tulsa County, Oklahoma, filed its Answer on February 26, 1990; that the Defendant, State of Oklahoma ex rel. Oklahoma Employment Security Commission, filed its Answer and Cross-Complaint on February 23, 1990; that the Defendant, Indiana Lumbermens Mutual Insurance Company, filed its Disclaimer on October 9, 1990; and that the Defendants, Donald P. Havenar d/b/a Sooner Bonding Agency, Inc., d/b/a The Bootlegger Club & Magoos Lounge a/k/a Don Havenar, Jose Frias a/k/a Jose M. Frias, Terry McDonald and Glen McDonald, have failed to answer and their default has therefore been entered by the Clerk of this Court.

The Court further finds that this is a suit based upon a certain mortgage note and for foreclosure of a mortgage securing said mortgage note upon the following described real property located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Twenty-six (26), Block Two (2), HOUSTON ADDITION to the City of Dawson, now an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded Plat thereof.

The Court further finds that on October 21, 1985, the Defendant, Jose Frias a/k/a Jose M. Frias, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, now known as Secretary of Veterans Affairs, his mortgage note in the amount of \$39,000.00, payable in monthly installments, with interest thereon at the rate of 11.5 percent (11.5%) per annum.

The Court further finds that as security for the payment of the above-described note, the Defendant, Jose Frias a/k/a Jose M. Frias, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, now known as Secretary of Veterans Affairs, a mortgage dated October 21, 1985, covering the above-described property. Said mortgage was recorded on October 22, 1985, in Book 4900, Page 2178, in the records of Tulsa County, Oklahoma.

The Court further finds that the Defendant, Jose Frias a/k/a Jose M. Frias, made default under the terms of the aforesaid note and mortgage by reason of his failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendant, Jose Frias a/k/a Jose M. Frias, is indebted to the Plaintiff in the principal sum of \$38,467.37, plus interest at the rate of 11.5 percent per annum from December 1, 1988 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action in the amount of \$294.19 (\$20.00 docket fees, \$6.84 fees for service of Summons and Complaint, \$267.35 publication fees).

The Court further finds that the Defendant, Indiana Lumbermens Mutual Insurance Company, disclaims all right, title and interest in the subject real property.

The Court further finds that the Defendants, County Treasurer and Board of County Commissioners, Tulsa County, Oklahoma, claim no right, title or interest in the subject real property.

The Court further finds that the Defendants, Donald P. Havenar d/b/a Sooner Bonding Agency, Inc., d/b/a The Bootlegger Club & Magoos Lounge a/k/a Don Havenar, Terry McDonald and Glen McDonald, claim no right, title or interest in the subject real property.

The Court further finds that the Defendant, State of Oklahoma ex rel. Oklahoma Employment Security Commission, has a lien on the property which is the subject matter of this action by virtue of Unemployment Compensation Tax Warrant No. 001749-88 dated February 11, 1988 and filed of record in Tulsa County, Oklahoma on March 24, 1988, in Book 5088 at Page 2521 in the amount of \$110.81 together with lawful interest rate of one percent (1%) per month on the said taxes of \$81.00 from February 20, 1990 until paid.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment in rem against the Defendant, Jose Frias a/k/a Jose M. Frias, in the principal sum of \$38,467.37, plus interest at the rate of 11.5 percent per annum from December 1, 1988 until judgment, plus interest thereafter at the current legal rate of 6.62 percent per annum until paid, plus the costs of this action in the amount of \$294.19 (\$20.00 docket fees, \$6.84 fees for service of Summons and Complaint, \$267.35 publication fees), plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, Donald P. Havenar d/b/a Sooner Bonding Agency, Inc., d/b/a The Bootlegger Club & Magoos Lounge a/k/a Don Havenar, Indiana Lumbermens Mutual Insurance Company, Terry McDonald, Glen McDonald, and County Treasurer and Board of County Commissioners, Tulsa County, Oklahoma, have no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, State of Oklahoma ex rel. Oklahoma Employment Security Commission, have and recover judgment in the amount of \$110.81, plus penalties and interest accrued and accruing, for Unemployment Compensation Tax Warrant No. 001749-88 dated February 11, 1988 and recorded on March 24, 1988, in Book 5088 at Page 2521 in the records of Tulsa County, Oklahoma.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisement the real property involved herein and apply the proceeds of the sale as follows:

First:

In payment of the costs of this action accrued and accruing incurred by the Plaintiff, including the costs of sale of said real property;

Second:

In payment of the judgment rendered herein
in favor of the Plaintiff;

Third:

In payment of Defendant, State of Oklahoma ex
rel. Oklahoma Employment Security Commission,
in the amount of \$110.81, plus penalties and
interest, for Unemployment Compensation Tax
Warrant No. 001749-88.

The surplus from said sale, if any, shall be deposited with the
Clerk of the Court to await further Order of the Court.

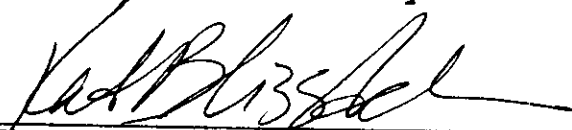
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from
and after the sale of the above-described real property, under
and by virtue of this judgment and decree, all of the Defendants
and all persons claiming under them since the filing of the
Complaint, be and they are forever barred and foreclosed of any
right, title, interest or claim in or to the subject real
property or any part thereof.

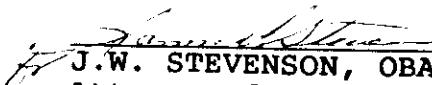
S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

APPROVED:

TONY M. GRAHAM
United States Attorney


KATHLEEN BLISS ADAMS, OBA #13625
Assistant United States Attorney
3600 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463


J.W. STEVENSON, OBA #8617

Attorney for Defendant, State of Oklahoma ex rel.
Oklahoma Employment Security Commission


J. DENNIS SEMLER, OBA #8076

Assistant District Attorney
Attorney for Defendants,
County Treasurer and
Board of County Commissioners,
Tulsa County, Oklahoma

Judgment of Foreclosure
Civil Action No. 90-C-0076-E

KBA/esr

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RONALD ROBINSON a/k/a RONALD E.
ROBINSON; BETTY ROBINSON a/k/a
BETTY Y. ROBINSON; COUNTY
TREASURER, Osage County,
Oklahoma; and BOARD OF COUNTY
COMMISSIONERS, Osage County,
Oklahoma,

Defendants.

F I L E D

JAN 30 1991

Jack C. Silver, Clerk
U.S. DISTRICT COURT

CIVIL ACTION NO. 89-C-364-E

DEFICIENCY JUDGMENT

This matter comes on for consideration this 30th day
of JAN., 1990, upon the Motion of the Plaintiff, United
States of America, acting on behalf of the Secretary of Veterans
Affairs, for leave to enter a Deficiency Judgment. The Plaintiff
appears by Tony M. Graham, United States Attorney for the
Northern District of Oklahoma, through Peter Bernhardt, Assistant
United States Attorney, and the Defendant, Ronald Robinson a/k/a
Ronald E. Robinson, appears neither in person nor by counsel.

The Court being fully advised and having examined the
court file finds that a copy of Plaintiff's Motion was mailed to
Ronald Robinson a/k/a Ronald E. Robinson, 405 North Wilson, Sand
Springs, Oklahoma 74063, and all counsel and parties of record.

The Court further finds that the amount of the Judgment
rendered on February 5, 1990, in favor of the Plaintiff United
States of America, and against the Defendant, Ronald Robinson

a/k/a Ronald E. Robinson, with interest and costs to date of sale is \$55,056.52.

The Court further finds that the appraised value of the real property at the time of sale was \$20,000.00.

The Court further finds that the real property involved herein was sold at Marshal's sale, pursuant to the Judgment of this Court entered February 5, 1990, for the sum of \$17,710.00 which is less than the market value.

The Court further finds that the Marshal's sale was confirmed pursuant to the Order of this Court on December 14, 1990.

The Court further finds that the Plaintiff, United States of America on behalf of the Secretary of Veterans Affairs, is accordingly entitled to a deficiency judgment against the Defendant, Ronald Robinson a/k/a Ronald E. Robinson, as follows:

Principal Balance as of 2/5/90	\$41,564.11
Interest	11,273.96
Late Charges to Date of Judgment	365.04
Appraisal by Agency	425.00
Management Broker Fees to Date of Sale	506.10
Abstracting	264.00
1988 and 1989 Taxes	408.86
Publication Fees of Notice of Sale	144.45
Court Appraisers' Fees	<u>105.00</u>
TOTAL	\$55,056.52
Less Credit of Appraised Value	- <u>20,000.00</u>
DEFICIENCY	\$35,056.52

plus interest on said deficiency judgment at the legal rate of 6.62 percent per annum from date of deficiency judgment until paid; said deficiency being the difference between the amount of Judgment rendered herein and the appraised value of the property herein.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the United States of America on behalf of the Secretary of Veterans Affairs have and recover from Defendant, Ronald Robinson a/k/a Ronald E. Robinson, a deficiency judgment in the amount of \$35,056.52, plus interest at the legal rate of 6.62 percent per annum on said deficiency judgment from date of judgment until paid.

W. L. C. BLISSON

UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM AND CONTENT:

TONY M. GRAHAM
United States Attorney

PETER BERNHARDT, OBA #741
Assistant United States Attorney
3600 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463

PB/css

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

KAISER ALUMINUM
Plaintiff(s),

vs.

No. 86-C-522-C ✓

STAMICARBON, B.V.
Defendant(s).

FILED
JAN 29 1991 *hm*
Jack C. Silver, Clerk
U.S. DISTRICT COURT

JUDGMENT DISMISSING ACTION
BY REASON OF SETTLEMENT

The Court has been advised by counsel that this action has been settled, or is in the process of being settled. Therefore, it is not necessary that the action remain upon the calendar of the Court.

IT IS ORDERED that the action is dismissed without prejudice. The Court retains complete jurisdiction to vacate this Order and to reopen the action upon cause shown that settlement has not been completed and further litigation is necessary.

IT IS FURTHER ORDERED that the Clerk forthwith serve copies of this Judgment by United States mail upon the attorneys for the parties appearing in this action.

Dated this 28 day of Jan, 1991.

[Signature]
UNITED STATES DISTRICT JUDGE

FILED

JAN 29 1991

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

Jack C. Silver, Clerk
U.S. DISTRICT COURT

JAMES W. CRAWFORD :
VS. : NO. 90 C-864 E
BURLINGTON NORTHERN :
RAILROAD COMPANY :

ORDER DISMISSING WITH PREJUDICE

Based upon the representation of counsel in their
Application for Order of Dismissal with Prejudice:

IT IS THEREFORE ORDERED that this case is hereby
dismissed with prejudice.

DATED this 29th day of January, 1991.

S/ JAMES O. ELLISON

JUDGE PRESIDING

APPROVED:

HUBBELL, SAWYER, PEAK & O'NEAL

BY:

Gene C. Napier
GENE C. NAPIER #24607
Power & Light Building,
25th Floor
106 West 14th Street
Kansas City, MO 63105-1992
(816) 221-5666

JONES, GIVENS, GOTCHER & BOGAN

BY:

Gregory K. Frizzell
GREGORY K. FRIZZELL #11089
3800 First National Tower
Tulsa, OK 74103
(918) 581-8200

ATTORNEYS FOR PLAINTIFF

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

F I L E D

JAN 29 1991

STATE OF OKLAHOMA, ex rel.,
OKLAHOMA TAX COMMISSION,

Plaintiff,

vs.

WYANDOTTE TRIBE OF OKLAHOMA,
A Federally Chartered
Corporation,

Defendant.

Jack C. Silver, Clerk
U.S. DISTRICT COURT


No. 87-C-9-E

(consol. w/87-C-63-E)

O R D E R

In accordance with the Judgment of the United States Court of Appeals for the Tenth Circuit entered on the 26th day of November, 1990, the case of State of Oklahoma, ex rel. Oklahoma Tax Commission v. Wyandotte Tribe of Oklahoma, a Federally Chartered Corporation (state case #C-86-549) is hereby remanded to the District Court of Ottawa County, State of Oklahoma for further proceedings.

ORDERED this 29th day of January, 1991.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

MARK WILLIAMS, ET AL
Plaintiff(s),

vs.

No. 89-C-0002-C

ROBERT BRUNER
Defendant(s).

FILED
JAN 29 1991
Jack C. Silver, Clerk
U.S. DISTRICT COURT

JUDGMENT DISMISSING ACTION
BY REASON OF SETTLEMENT

The Court has been advised by counsel that this action has been settled, or is in the process of being settled. Therefore, it is not necessary that the action remain upon the calendar of the Court.

IT IS ORDERED that the action is dismissed without prejudice. The Court retains complete jurisdiction to vacate this Order and to reopen the action upon cause shown that settlement has not been completed and further litigation is necessary.

IT IS FURTHER ORDERED that the Clerk forthwith serve copies of this Judgment by United States mail upon the attorneys for the parties appearing in this action.

Dated this 28 day of Jan, 1991.


UNITED STATES DISTRICT JUDGE

76

md 2-4

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 29 1991

CLERK
U.S. DISTRICT COURT

UNITED STATES OF AMERICA,
Plaintiff,

vs.

STEVEN B. THOMAS a/k/a STEVE
THOMAS; COUNTY TREASURER, Osage
County, Oklahoma; and BOARD OF
COUNTY COMMISSIONERS, Osage
County, Oklahoma,

Defendants.

CIVIL ACTION NO. 90-C-721-C

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 29th day
of January, 1991. The Plaintiff appears by Tony M.
Graham, United States Attorney for the Northern District of
Oklahoma, through Kathleen Bliss Adams, Assistant United States
Attorney; the Defendants, County Treasurer, Osage County,
Oklahoma, and Board of County Commissioners, Osage County,
Oklahoma, appear by John S. Boggs, Jr., Assistant District
Attorney, Osage County, Oklahoma; and the Defendant, Steven B.
Thomas a/k/a Steve Thomas, appears not, but makes default.

The Court being fully advised and having examined the
court file finds that the Defendant, Steven B. Thomas a/k/a Steve
Thomas, was served with Summons and Complaint on October 31,
1990; that Defendant, County Treasurer, Osage County, Oklahoma,
acknowledged receipt of Summons and Complaint on September 4,
1990; and that Defendant, Board of County Commissioners, Osage
County, Oklahoma, acknowledged receipt of Summons and Complaint
on September 4, 1990.

NOTE: THIS ORDER IS TO BE MAILED
BY CLERK TO ALL COUNSEL AND
FILE OF RECORDS IMMEDIATELY
UPON RECEIPT.

It appears that the Defendants, County Treasurer, Osage County, Oklahoma, and Board of County Commissioners, Osage County, Oklahoma, filed their Answer on September 7, 1990; that the Defendant, Steven B. Thomas a/k/a Steve Thomas, has failed to answer and his default has therefore been entered by the Clerk of this Court.

The Court further finds that this is a suit based upon a certain mortgage note and for foreclosure of a mortgage securing said mortgage note upon the following described real property located in Osage County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot 4, Block 1, Lombard Heights, a Subdivision in Osage County, Oklahoma, according to the recorded Plat thereof.

Subject, however, to all valid outstanding easements, rights of way, mineral leases, mineral reservations and mineral conveyances of record.

The Court further finds that on April 19, 1985, Steven B. Thomas executed and delivered to the United States of America, acting through the Farmers Home Administration, his mortgage note in the amount of \$41,500.00, payable in monthly installments, with interest thereon at the rate of 11.875 percent per annum.

The Court further finds that as security for the payment of the above-described note, Steven B. Thomas executed and delivered to the United States of America, acting through the Farmers Home Administration, a mortgage dated April 19, 1985, covering the above-described property. Said mortgage was

recorded on April 19, 1985, in Book 0674, Page 304, in the records of Osage County, Oklahoma.

The Court further finds that on April 19, 1985, Steven B. Thomas executed and delivered to the United States of America, acting through the Farmers Home Administration, an Interest Credit Agreement pursuant to which the interest rate on the above-described note and mortgage was reduced.

The Court further finds that on January 7, 1986, Steven B. Thomas executed and delivered to the United States of America, acting through the Farmers Home Administration, an Interest Credit Agreement pursuant to which the interest rate on the above-described note and mortgage was reduced.

The Court further finds that on January 31, 1987, Steve Thomas executed and delivered to the United States of America, acting through the Farmers Home Administration, an Interest Credit Agreement pursuant to which the interest rate on the above-described note and mortgage was reduced.

The Court further finds that the Defendant, Steven B. Thomas a/k/a Steve Thomas, made default under the terms of the aforesaid note and mortgage by reason of his failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendant, Steven B. Thomas a/k/a Steve Thomas, is indebted to the Plaintiff in the principal sum of \$41,303.43, plus accrued interest in the amount of \$6,623.21 as of August 16, 1989, plus interest accruing thereafter at the rate of 11.875 percent per annum or \$13.4377 per day until judgment, plus interest thereafter at the legal rate until fully

paid, and the further sum due and owing under the interest credit agreements of \$10,144.31, plus interest on that sum at the legal rate from judgment until paid, and the costs of this action in the amount of \$43.90 (\$20.00 docket fees, \$15.90 fees for service of Summons and Complaint, \$8.00 fee for recording Notice of Lis Pendens).

The Court further finds that the Defendants, County Treasurer and Board of County Commissioners, Osage County, Oklahoma, have a lien on the property which is the subject matter of this action by virtue of ad valorem taxes in the amount of \$384.45, plus penalties and interest, for the year 1989. Said lien is superior to the interest of the Plaintiff, United States of America.

The Court further finds that the Defendants, County Treasurer and Board of County Commissioners, Osage County, Oklahoma, have a lien on the property which is the subject matter of this action by virtue of personal property taxes in the amount of \$21.58 which became a lien on the property as of 1989. Said lien is inferior to the interest of the Plaintiff, United States of America.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendant, Steven B. Thomas a/k/a Steve Thomas, in the principal sum of \$41,303.43, plus accrued interest in the amount of \$6,623.21 as of August 16, 1989, plus interest accruing thereafter at the rate of 11.875 percent per annum or \$13.4377 per day until judgment, plus interest thereafter at the current legal rate of 6.62

percent per annum until fully paid, and the further sum due and owing under the interest credit agreements of \$10,144.31, plus interest on that sum at the current legal rate of 6.62 percent per annum from judgment until paid, plus the costs of this action in the amount of \$43.90 (\$20.00 docket fees, \$15.90 fees for service of Summons and Complaint, \$8.00 fee for recording Notice of Lis Pendens), plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, County Treasurer and Board of County Commissioners, Osage County, Oklahoma, have and recover judgment in the amount of \$384.45, plus penalties and interest, for ad valorem taxes for the year 1989, plus the costs of this action.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, County Treasurer and Board of County Commissioners, Osage County, Oklahoma, have and recover judgment in the amount of \$21.58 for personal property taxes for the year 1989, plus the costs of this action.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendant, Steven B. Thomas a/k/a Steve Thomas, to satisfy the money judgment of the Plaintiff herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisement the real property involved herein and apply the proceeds of the sale as follows:

First:

In payment of the costs of this action accrued and accruing incurred by the Plaintiff, including the costs of sale of said real property;

Second:

In payment of Defendants, County Treasurer and Board of County Commissioners, Osage County, Oklahoma, in the amount of \$384.45, plus penalties and interest, for ad valorem taxes which are presently due and owing on said real property;

Third:

In payment of the judgment rendered herein in favor of the Plaintiff;

Fourth:

In payment of Defendants, County Treasurer and Board of County Commissioners, Osage County, Oklahoma, in the amount of \$21.58, personal property taxes which are currently due and owing.

The surplus from said sale, if any, shall be deposited with the Clerk of the Court to await further Order of the Court.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described real property, under and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the

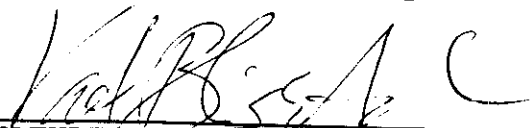
Complaint, be and they are forever barred and foreclosed of any right, title, interest or claim in or to the subject real property or any part thereof.


(Signed) H. Dale Cook

UNITED STATES DISTRICT JUDGE

APPROVED:

TONY M. GRAHAM
United States Attorney


KATHLEEN BLISS ADAMS, OBA #13625
Assistant United States Attorney
3600 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463


JOHN S. BOGGS JR., OBA #0920
Assistant District Attorney
Attorney for Defendants,
County Treasurer and
Board of County Commissioners,
Osage County, Oklahoma

Judgment of Foreclosure
Civil Action No. 90-C-721-C

KBA/css

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILE

JAN 29

U.S. DISTRICT COURT

GEORGE B. REINKE,)	
)	
Plaintiff,)	
)	
vs.)	Civil No. 91-C-49-C
)	
ARNOLD D. BURLESON AND KATHERINE)	NOTICE OF DISMISSAL
BURLESON, ET. AL.,)	
)	
Defendants,)	
)	
and)	
)	
INTERNAL REVENUE SERVICE,)	
)	
Garnishee.)	

NOTICE OF DISMISSAL

Plaintiff, George B. Reinke, by and through undersigned counsel, respectfully notifies this Court pursuant to 28 U.S.C. Rule 41(a) that plaintiff hereby dismisses without prejudice this action against the Internal Revenue Service. Each party shall bear its own costs.

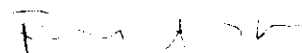
Respectfully submitted,
BREWSTER AND SHALLCROSS

BY: Richard A. Shallcross
Richard A. Shallcross
OBA NO. 010016
Sooner Federal Building
Twenty East Fifth Street
Fifteenth Floor
Tulsa, OK 74103
(918) 584-1500

Attorneys for Plaintiff
George B. Reinke

CERTIFICATE OF MAILING

I hereby certify that on the 29th day of January, 1991, I mailed a true and correct copy of the above and foregoing instrument in the United States mail with proper postage affixed to: John A. Diccico, Tax Division, U.S. Department of Justice, P.O. Box 7238, Washington, D.C. 20044.



Richard A. Shallcross

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 29 1991

CLERK
U.S. DIST. CT. COURT

L.D. ROGERS, an individual,

Plaintiff,

vs.

HAROLD LAY, in his former
official capacity as
Sheriff of Nowata County,

Defendant.

Case No. 89-C-314-B ✓

O R D E R

This matter comes on for consideration upon the Application of Plaintiff For Relief From Judgment Pursuant to F.R.C.P. 60(a). Plaintiff alleges the Court, when entering Judgment pursuant to jury verdict on November 29, 1990, inadvertently omitted to provide for Plaintiff's entitlement to pre-judgment interest as allowed by state law.

Plaintiff's jury verdict is an award of damages for violation of both his alleged 42 U.S.C. §1983 civil rights claim, and his wrongful termination pendent state claim. The jury by its verdict determined Defendant violated both the federal and state law. The elements of damage for both the federal and state violations are essentially the same. The Court concludes the verdict implicates either or both federal or state rights to pre-judgment interest.

Okalhoma law, 12 O.S. § 727 provides for both pre-judgment and post-judgment interest, the latter, in federal cases, subsumed by

the federal statute on post-judgment interest.¹ The former, pre-judgment interest, is provided for in § 727, as follows:

2. When a verdict for damages by reason of personal injuries or injury to personal rights including, but not limited to, injury resulting from bodily restraint, personal insult, defamation, invasion of privacy, injury to personal relations, or detriments due to an act or omission of another is accepted by the trial court, the court in rendering judgment shall add interest on said verdict at a rate prescribed pursuant to subsection B of this section from the date the suit was commenced to the date of verdict, except such verdict against . . . counties . . . shall bear interest at the rate prescribed pursuant to subsection B . . . but not to exceed ten percent (10%) from the date the suit was commenced to date of verdict . . .

The Court concludes the present action fits within the parameters of the state's pre-judgment categories. The Court further concludes the statutory language "shall add interest" mandates the inclusion of pre-judgment interest as opposed to a discretionary option to award or not award such interest.

The next inquiry is whether Plaintiff's Application For Relief is time-barred. Typically, Rule 60 is an improper vehicle within which to seek relief from a judgment which fails to include discretionary pre-judgment interest. Gray v. Dukedom Bank 216 F2d 108 (6th Cir. 1954); Stowers v. U.S., 191 F.Supp. 795 (D.C.Ga.1961). A request of such nature must be brought under Rule

¹ 28 U.S.C. §1961 provides that interest is allowed on any money judgment in a civil case and is calculated from the date of entry of the judgment, at a rate equal to the coupon issue yield equivalent (as determined by the Secretary of the Treasury) of the average accepted auction price for the last auction of fifty-two week United States Treasury bills settled immediately prior to the date of the judgment.

59, and within ten days from the entry of Judgment. Dukedom, *supra*. Plaintiff's dilemma is if his motion comes within the purview of Rule 59 it is time-barred, having filed his Application on December 21, 1990, twenty-two days after the entry of Judgment.

However, a motion to amend an judgment to add pre-judgment interest to which a Plaintiff is entitled as a matter of law may come within the scope of Rule 60. Gilroy v. Erie-Lackawanna Railroad Company, 44 F.R.D. 3, (D.C.N.Y.1968). Gilroy, at page 4, provides:

"The addition is merely a ministerial task which cannot be denied through mere inadvertence, regardless of whether the error goes undiscovered for a period exceeding ten days. (citing cases)."

The Court concludes Plaintiff's Application For Relief From Judgment should be and the same is hereby GRANTED to the extent of allowing Plaintiff pre-judgment interest on the jury verdict award of \$46,000.00 from April 17, 1989, (the commencement of suit date) to November 29, 1990, (the date verdict was entered) at the rate of ten percent (10%) per annum.² An Amended Judgment will be entered simultaneously herewith.

IT IS SO ORDERED this 29th day of January, 1991.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

² The allowable interest rate cap against counties is 10%.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

JAN 29 1991

L.D. ROGERS, an individual,

Plaintiff,

vs.

HAROLD LAY, in his former
official capacity as
Sheriff of Nowata County,

Defendant.

Case No. 89-C-314-B

A M E N D E D J U D G M E N T

In keeping with the verdict of the jury returned and filed November 29, 1990, Judgment is hereby entered in favor of L.D. Rogers, Plaintiff, and against the Defendant, County of Nowata, State of Oklahoma, and the County of Nowata ex rel Sheriff's Department, in the amount of Forty-Six Thousand Dollars (\$46,000.00), plus interest thereon from April 17, 1989, at the rate of 10% per annum, up to and including the date of the verdict, November 29, 1990, and interest thereafter at the rate of 7.28% until paid. Plaintiff is further granted judgment for costs and attorneys fees if timely applied for pursuant to local rule.

DATED this 29th day of January, 1991.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED
JAN 29 1991

WILLIAMS NATURAL GAS COMPANY,
a Delaware corporation,

Plaintiff,

v.

VAIL ENERGY CORPORATION, d/b/a
ENMARK GAS GATHERING, a Texas
corporation, and ENMARK GAS
CORP., a Texas corporation,

Defendant.

Case No. 90 C-996 E

STIPULATION OF DISMISSAL

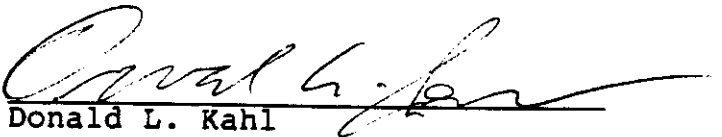
The parties hereto, by and through their undersigned counsel, pursuant to Rule 41(a) of the Federal Rules of Civil Procedure hereby dismiss this case with prejudice. Each party hereto shall bear its own costs, expenses and attorneys fees.

Respectfully submitted,



Neal Tomlins, OBA #10499
BAKER, HOSTER, McSPADDEN,
CLARK, RASURE & SLICKER
800 Kennedy Building
Tulsa, Oklahoma 74103
(918) 592-5555

Attorneys for Defendants,
Vail Energy Corp. and
EnMark Gas Corp.



Donald L. Kahl
Orval Jones
Hall, Estill, Hardwick, Gable,
Golden & Nelson
4100 Bank of Oklahoma Tower
Tulsa, Oklahoma 74103

Attorneys for Plaintiff,
Williams Natural Gas Company

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 29 1991

DORA KREPPS, individually, and
as mother and next of kin of
ZACHERY C. KREPPS, Deceased,

Plaintiff,

vs.

LIFE INSURANCE COMPANY OF NORTH
AMERICA, and CIGNA EMPLOYEE
BENEFITS COMPANIES,

Defendants.

Jack C. Silver, Clerk
U.S. DISTRICT COURT

No. 90-C-988-B

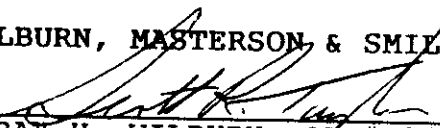
DISMISSAL WITHOUT PREJUDICE

COMES NOW Plaintiff, Dora Krepps, in the above captioned matter and respectfully requests this Court dismiss without prejudice Cigna Employee Benefits Companies. Plaintiff would show in support of this Request that Cigna Employee Benefits Companies is not a proper party and that Defendant has no objection to said dismissal.

Respectfully submitted,

WILBURN, MASTERSON & SMILING

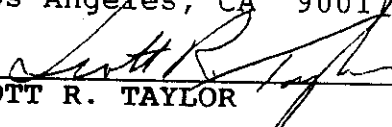
By


RAY H. WILBURN, OBA# 9600
SCOTT R. TAYLOR, OBA# 13416
Attorneys for Plaintiff

2526-A East 71st St.
Tulsa, OK 74136-5548
918/494-0414
FAX: 918/493-3455

CERTIFICATE OF MAILING

I, Scott R. Taylor, do hereby certify that on this 25th
day of January, 1990, I mailed a true and correct
copy of the above and foregoing Dismissal Without Prejudice
with proper postage thereon fully prepaid to: Life Insurance
Company of North America, Attn. James B. Gardner, 11400 W.
Olympic Blvd., Ste. 550, Los Angeles, CA 90064; and Cigna, CT
Corp. System, 818 W. 7th S.E., Los Angeles, CA 90017.



SCOTT R. TAYLOR

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 29 1991

Jack C. Silver, Clerk
U.S. DISTRICT COURT

GAS ENERGY DEVELOPMENT
COMPANY,

Plaintiff,

vs.

PACIFIC WESTERN ENERGY
CORP.,

Defendant.


Case No. 90-C-82-B

ORDER

The Complaint in this matter was filed February 2, 1990. The record fails to reflect any Return of Service indicating service upon the Defendant. The case is subject to dismissal without prejudice pursuant to Rule 4 (j), Federal Rules of Civil Procedure.

The Court concludes this matter should be and the same is hereby Dismissed Without Prejudice.

IT IS SO ORDERED this 29th day of January, 1991.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

F I L E D

JAN 29 1991

STATE OF OKLAHOMA, ex rel.,
OKLAHOMA TAX COMMISSION,

Plaintiff,

vs.

WYANDOTTE TRIBE OF OKLAHOMA,
A Federally Chartered
Corporation,

Defendant.

Jack C. Silver, Clerk
U.S. DISTRICT COURT

No. 87-C-9-E

(Consol. w/87-C-63-E)

O R D E R

In accordance with the Judgment of the United States Court of Appeals for the Tenth Circuit entered on the 26th day of November, 1990, the case of State of Oklahoma, ex rel. Oklahoma Tax Commission v. Wyandotte Tribe of Oklahoma, a Federally Chartered Corporation (state case #C-86-549) is hereby remanded to the District Court of Ottawa County, State of Oklahoma for further proceedings.

ORDERED this 29th day of January, 1991.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 29 1991

Jack C. Silver, Clerk
U.S. DISTRICT COURT

LOUISE PLAISTED,

Plaintiff,

vs.

No. 89-C-5-E


OTIS R. BOWEN, M.D.,
Secretary of the Department
of Human Services,

Defendant.

O R D E R

In accordance with the Order of the United States Court of Appeals for the Tenth Circuit filed on October 31, 1990, this matter is remanded to the Secretary for further administrative proceedings.

ORDERED this 29TH day of Jan, 1991.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

FILED
JAN 29 1991
CLERK
DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

MARCIA C. ALLISON,

Plaintiff,

vs.

MOORE FUNERAL HOME,
INCORPORATED, an Oklahoma
corporation, et al.,


Defendants.

Case No. 90-C-585-C ✓

ORDER

NOW on this 29th day of January, 1991, comes on before me the undersigned Judge, the Joint Application of Plaintiff and Defendant John Twolate for dismissal without prejudice of Plaintiff's claim against Defendant Twolate. The Court, being fully advised in the premises, finds that the same should be granted.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that Plaintiff's claim against Defendant Twolate be and the same is hereby dismissed without prejudice.


H. DALE COOK
United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 29 1991

Jack C. Silver, Clerk
U.S. DISTRICT COURT

MARCUS R. MILLER,

Plaintiff,

v.

TULSA COUNTY JAIL, STANLEY
GLANZ, SHERIFF, et al,

Defendants.

90-C-526-B

ORDER

This order pertains to plaintiff's Civil Rights Complaint Pursuant to 42 U.S.C. § 1983 (Docket #2)¹, plaintiff's Motion for Leave to File an Amended Complaint (#4), plaintiff's Amended Complaint (#7), plaintiff's Motions for Order for Discovery of Documents or Things Prepared in Anticipation of Litigation (#10 and #11), defendants' Motions to Dismiss (#13, #14, and #21), plaintiff's Responses to the motions to dismiss (#20 and #23), plaintiff's Motion for Leave to File an Amended Complaint (#24), and defendants' Objection to Motion for Leave to File Amended Complaint (#25).

Plaintiff's Motion for Leave to File an Amended Complaint

Plaintiff's first Motion for Leave to File an Amended Complaint (#4) is moot, as his Amended Complaint (#7) was filed of record on August 8, 1990, in accordance with Rule 15(a) of the Federal Rules of Civil Procedure.

¹ "Docket numbers" refer to numerical designations assigned sequentially to each pleading, motion, order, or other filing and are included for purposes of record keeping only. "Docket numbers" have no independent legal significance and are to be used in conjunction with the docket sheet prepared and maintained by the United States Court Clerk, Northern District of Oklahoma.

Plaintiff's Claims

Plaintiff filed this action under 42 U.S.C. §§ 1983, 1985, 1986, and 1988 alleging civil rights violations. In Count I, plaintiff claims that Deputy Sheriffs Lance Ramsey, Jerry Bagby, and Bob Bates used excessive force in getting him to return to his jail cell after he had worked in the jail law library. In Count II, plaintiff claims deliberate indifference to his medical needs after the alleged assault by the deputy sheriffs. In Count III, plaintiff claims false imprisonment and/or malicious prosecution. Under this count, plaintiff accuses Captain Cherry of committing perjury in the plaintiff's trial for assault and battery upon a police officer. Plaintiff also accuses Doctor Barnes of lying on the stand to get a conviction against him.

In Count IV, plaintiff claims cruel and unusual punishment when the deputy sheriffs handcuffed him to his bunk and put leg restraints on him, leaving him like this for two hours. In Count V, plaintiff alleges a biased investigation. Plaintiff claims that during the investigation of the December 13, 1989 incident, defendants interviewed only potential state witnesses and did not interview plaintiff or any of plaintiff's potential witnesses. In Count VI, plaintiff alleges "Gross and Reckless Negligence in Breaching of Statutory Duty to Train and Certify Deputies and That Breach Directly Resulted in Three Deputy Sheriff's [sic] Assault Against Me". Plaintiff claims that the policies and procedures implemented by the Council on Law Enforcement Education and Training, Sheriff Stanley Glanz, and Captain Dan Cherry are responsible for the deputy sheriffs' unlawful behavior.

In Count VII, plaintiff alleges intentional infliction of emotional distress. Plaintiff claims that, due to the several events which occurred after the December 13, 1989

incident, he suffered emotional distress. Plaintiff states he was chained to his bunk for two hours, was not allowed to make any phone calls, was not allowed to see a doctor until six (6) days after the occurrence, when he did see the doctor, the doctor ridiculed him, and he was "forced into three jury trials", including one for assault and battery on a police officer.

In Count VIII, plaintiff alleges "Deliberate, Willful, and Prejudice Acts to Keep Me Incarcerated, and Force Him Into Jury Trials in Two Previous Cases and Denied Him the Right to Paid Counsel He Would Otherwise Have Had, Had It Not Been for the Actions of the Defendants". Plaintiff had two felony charges pending against him and was being held in jail until his family could make his bail. During the course of his detention, plaintiff claims he was assaulted by the deputy sheriffs and charges of assault and battery were brought against him, causing the judge to raise his bail money to \$50,000, which his family could not make. Plaintiff was convicted of the two previous offenses and convicted of the assault and battery offense. Plaintiff claims that, had he not been assaulted by the deputy sheriffs, he would have been able to make bond on the two previous offenses and would have had money to hire an attorney.

Plaintiff, in Count IX, alleges a conspiracy against him by deputy sheriffs and others to bring false charges against him in violation of § 1985 of the Civil Rights Act. Plaintiff also states that the prosecutorial witnesses in plaintiff's criminal trial conspired to give false testimony to obtain a conviction against him.

Motion to Dismiss Defendant Clent Dedek

Plaintiff alleges that defendant Clent Dedek ("Dedek"), as Commissioner for the

Council on Law Enforcement Education and Training ("CLEET"), implemented policies and procedures in training sheriff's deputies, which caused them to act in an illegal manner and to violate his civil rights under 42 U.S.C. § 1983. In his brief in support of his Motion to Dismiss, Dedek explains that he was incorrectly named as the Commissioner of CLEET and is in fact the Commissioner of the Oklahoma Department of Public Safety. Dedek further states that the Commissioner of the Oklahoma Department of Public Safety has no affiliation with the Tulsa County Sheriff's Office, its deputies, its employees, or its jail.

Because Dedek was incorrectly named as a party to this suit, his Motion to Dismiss (#13) with prejudice pursuant to Rule 23(B)(6) of the Federal Rules of Civil Procedure is granted.

Defendants' Motion to Dismiss

Defendants Stanley Glanz, Sheriff of Tulsa County, Oklahoma, Lance Ramsey, Dan Cherry, Bob Bates, and Jerry K. Bagby, Deputy Sheriffs, ask that plaintiff's claim be dismissed pursuant to Rule 12(b)(2), (4), and (6) of the Federal Rules of Civil Procedure for failure to state a claim and for lack of jurisdiction due to insufficiency of process, and pursuant to 28 U.S.C. § 1915(d). Alternatively, the defendants ask this court to grant summary judgment in their favor pursuant to Rule 56 of the Federal Rules of Civil Procedure, which will not be reached if the court grants defendants' Motion to Dismiss.

a) Excessive Use of Force, Assault and Battery, and Biased Investigation Claims

Defendants allege that plaintiff should be barred from seeking § 1983 relief in his claim of excessive use of force or assault and battery against them because of the doctrine of res judicata and collateral estoppel. Plaintiff was tried and convicted on February 13,

1990 of Assault and Battery on a Police Officer After Former Conviction of Two or More Felonies. Plaintiff was given a sentence of twenty (20) years. This conviction arose out of the incident on December 13, 1989, for which plaintiff now seeks redress for alleged violations of his constitutional rights. Defendants claim that, because the issue of assault and battery was fully litigated and decided in the plaintiff's criminal trial, he is barred from raising the issue again in a civil suit against the participants in that trial, due to the doctrines of res judicata and issue preclusion.

Under the doctrine of res judicata, a final judgment on the merits of an action precludes the parties from relitigating issues which were or could have been litigated in that action. Allen v. McCurry, 449 U.S. 90, 94 (1980). Under the doctrine of collateral estoppel, once a court decides an issue of fact or law in a particular case, the decision precludes relitigation of the same issue on a different cause of action involving a party to the first case. Id.

In Allen, the Supreme Court outlined the role of collateral estoppel in section 1983 actions, holding that the "history of § 1983 does not in any way suggest that Congress intended to repeal or restrict the traditional doctrines of preclusion." Id. at 98. Although the Court noted that a major purpose behind the enactment of section 1983 was the "grave congressional concern that the state courts had been deficient in protecting federal rights," the Court concluded that "much clearer support than this would be required to hold that § 1738 and the traditional rules of preclusion are not applicable to § 1983 suits." Id. at 98-99. Section 1738 of Title 28, the full faith and credit statute, imposes on the federal

courts the obligation to give state court judgments the same effect as they would have in the courts of the state rendering them.

The Court subsequently applied the reasoning in Allen to encompass claim preclusion in a Title VII setting in Kremer v. Chemical Construction Corp., 456 U.S. 461 (1982). The court in Kremer made clear that the preclusive effect of state court actions stems from 28 U.S.C. § 1738, and that federal courts must apply a state's preclusion rules to a state court's decision unless the federal statute being sued under explicitly provides otherwise. Id. at 481-82.

Courts in other jurisdictions have found that plaintiffs are barred from raising in a civil suit issues previously litigated in a criminal action. Glantz v. U.S., 837 F.2d 23 (1st Cir. 1988); Willard v. United States, 422 F.2d 810 (5th Cir.), cert. den. 398 U.S. 913 (1970).

The court in Smith v. Sinclair, 424 F.Supp. 1108 (W.D.Okla. 1976), found that the principles of res judicata were applicable to suits brought under the Civil Rights Act after a previous criminal court conviction. The court found that where issues concerning plaintiff's arrest and search had been presented to the federal court in plaintiff's prosecution for bank robbery and directly determined by the court adversely to plaintiff, the doctrine of issue preclusion prevented relitigation of the same issues in plaintiff's civil rights action brought against the law enforcement officials, notwithstanding the fact that the law enforcement officials were not parties to plaintiff's criminal proceedings.

The doctrine of collateral estoppel prohibits the plaintiff from bringing this action against the named defendants for assault and battery and/or excessive use of force, as

these issues were raised as defenses in defendants' trial and were not found by the jury to have merit. Plaintiff had a full and fair opportunity to defend himself against the claim of assault and battery upon a police officer at trial. His claim that he was an innocent victim was not believed by the jury. The issue of who assaulted who has been fully litigated or determined by a jury at a higher standard than would be required of a jury in this civil case. Issue preclusion applies and the doctrine of collateral estoppel precludes the relitigation of the issues.

The Motions to Dismiss plaintiff's excessive use of force and assault and battery claims of defendants Stanley Glanz, Sheriff of Tulsa County, Oklahoma, Lance Ramsey, Dan Cherry, Bob Bates, and Jerry K. Bagby, Deputy Sheriffs, are therefore granted.

b) False Imprisonment and/or Malicious Prosecution Claim

Defendants further contend that plaintiff's complaint fails to state a cause of action under § 1983 for defendants allegedly giving false testimony against plaintiff in his criminal trial.

In order for a defendant to be liable under § 1983, it is essential that he or she acts under color of state law in causing the denial of a federally protected right. Espinoza v. Rogers, 470 F.2d 1174 (10th Cir. 1972). In Smith, 424 F.Supp. at 1113, the court stated that "[a] witness in a trial is not acting under color of law and his false testimony does not give rise to a cause of action under Section 1983." Accordingly, plaintiff's claim of a civil rights violation based on "false" imprisonment and/or "malicious" prosecution related to defendants' alleged perjured testimony cannot stand.

Defendants' Motions to Dismiss plaintiff's claim that his civil rights were violated by the "malicious" prosecution of allegedly baseless claims and the resulting allegedly "false" imprisonment are granted. Even if these claims for malicious prosecution and false imprisonment are attempts to assert pendant state law claims, the claims must fail because all of plaintiff's federal claims should be and are dismissed and thus no pendant jurisdiction exists. United Mine Workers v. Gibbs, 383 U.S. 715 (1966).

c) Cruel and Unusual Punishment Claim

Plaintiff also makes an allegation of cruel and unusual punishment by the sheriff's department, which the defendants have failed to address in their brief to support their motion to dismiss. Plaintiff states in his amended complaint that he was chained to his bunk in his jail cell for two hours after the altercation with the deputy sheriffs.

The Eighth Amendment's cruel and unusual punishment clause proscribes punishments "which although not physically barbarous, involve the unnecessary and wanton infliction of pain; or are grossly disproportionate to the nature of the crime." Unnecessary and wanton inflictions of pain are those that are "totally without penological justification". Rhodes v. Chapman, 452 U.S. 337, 346 (1981). The infliction of pain when pertaining to prison security "does not amount to cruel and unusual punishment simply because it may appear in retrospect that the degree of force authorized or applied for security purposes was unreasonable, and hence unnecessary in the strict sense." Whitley v. Albers, 475 U.S. 312, 319 (1986). The force applied must be exerted in a good faith effort to maintain discipline and not maliciously to cause harm. *Id.* at 320. The court stated that it would be cruel and unusual punishment to chain a prisoner to his bed for a

protracted length of time in Tate v. Kassulke, 409 F.Supp. 651, 654 (W.D. Ken 1976) (citing Wheeler v. Glass, 473 F.2d 983 (7th Cir. 1973), where the tying down of juveniles to their beds for more than forty-eight hours was deemed to be a violation of the Eighth Amendment).

Plaintiff admits in his petition that he was handcuffed and legcuffed to his bunk for two hours after the altercation with three deputy sheriffs. Even if the court accepts this as fact, the claim does not rise to the level of cruel and unusual punishment under the Eighth Amendment. Therefore, defendants' motions to dismiss plaintiff's claim for cruel and unusual punishment are also granted.

d) Deliberate Indifference to Medical Needs Claim

The insufficiency of medical treatment will not amount to cruel and unusual punishment in violation of the Eighth Amendment to the United States Constitution unless there have been "acts or omissions sufficiently harmful to evidence deliberate indifference to serious medical needs". Estelle v. Gamble, 429 U.S. 97, 106 (1976), reh. den. 429 U.S. 1066 (1977). A mere difference in opinion as to proper medical treatment will not suffice as a cause of action under Estelle. "In order to state a cognizable claim, a prisoner must allege acts or omissions sufficiently harmful to evidence deliberate indifference to serious medical needs." Id. at 106.

In the case at bar, the record indicates that the plaintiff was seen eleven (11) times by either a doctor or nurse between December 13, 1989 and January 3, 1990. Plaintiff's medical chart indicates that there was nothing seriously wrong with him. The chart also indicates that when Dr. Barnes could find no reason for the plaintiff's complaints, he

referred him to a psychiatrist. (See Affidavit of Cassie Krumm, Exhibit C to defendants' Motion to Dismiss or Alternatively Motion for Summary Judgment) Plaintiff presented no contrary evidence.

The court finds that plaintiff can prove no set of facts which is sufficient to establish a deliberate indifference to his medical needs. Therefore defendants' motions to dismiss plaintiff's claim for improper medical treatment are granted.

e) Intentional Infliction of Emotional Distress Claim

Plaintiff also makes a claim of intentional infliction of emotional distress which the defendants fail to address. This is a claim which realleges everything plaintiff has alleged in his other causes of action, with the addition that plaintiff states he was kept from seeing family members for two weeks and was not allowed to shower for two weeks. Under a 1983 claim for intentional infliction of emotional distress, the plaintiff must allege some type of procedural deprivation. Busche v. Burke, 649 F.2d 509, 519 (7th Cir.), cert. den. 454 U.S. 897 (1981). Because plaintiff has not succeeded in any of his other causes of action to state a claim of a deprivation of constitutional rights, this claim cannot stand. Defendants' motions to dismiss this claim are granted.

**f) Gross and Reckless Negligence in Breach of Statutory
Duty to Train and Certify Deputies Claim**

Plaintiff accuses Stanley Glanz, Captain Dan Cherry, and Director Don C. Holyfield of Oklahoma's Council on Law Enforcement Education and Training (Johnny F. Dirck has been substituted as a party due to his current status as the Director of CLEET) of

implementing policies and procedures which caused the deputy sheriffs to act in an unlawful manner, which is a breach of their statutory duty to train and certify law enforcement officers.

Because all of plaintiff's claims against the deputy sheriffs have been dismissed, defendants' motions to dismiss this cause of action against the above-named defendants are also granted.

g) Claim of Deliberate, Willful, Discriminatory, and Prejudicial Acts

The gist of this cause of action is the claim that had plaintiff not been arrested for assaulting a police officer, he would have been free on bail pending trial for the other two charges against him and would have been able to hire an attorney of his own choosing. However, the plaintiff was fully represented by counsel at both his criminal trials and received convictions on all counts against him.

As already discussed, under § 1983 a plaintiff must allege a violation of his constitutional rights. Plaintiff has failed to show a deprivation of such rights in this claim. Therefore, defendants' motions to dismiss this cause of action are granted.

h) Conspiracy

Because plaintiff's claim against the defendants for malicious prosecution has been dismissed, defendants' motions to dismiss this cause of action are also granted.

Summary

In summary, plaintiff cannot prevail on any of his claims. The rule for reviewing the sufficiency of any complaint is that the "complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts

in support of his claim which would entitle him to relief." Scheuer v. Rhodes, 416 U.S. 232, 236 (1974) (quoting Conley v. Gibson, 355 U.S. 41, 45-46 (1957)). A court may dismiss an action for failure to state a cause of action "only if it is clear that no relief could be granted under any set of facts which could be proved." Hishon v. King & Spalding, 467 U.S. 69, 73 (1984). Here, the plaintiff is not entitled to any legal relief. He has made claims which are barred by the doctrine of collateral estoppel, or upon which no possible legal relief can be granted. Therefore, plaintiff's complaint is dismissed in its entirety.

Plaintiff's Motions for Order for Discovery of Documents or Things Prepared in Anticipation of Litigation (#10 and #11) and second Motion for Leave to File An Amended Complaint (#24) are moot.

Dated this 28th day of January, 1991.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

TEN THOUSAND DOLLARS
(\$10,000.00) IN UNITED
STATES CURRENCY AND
REAL PROPERTY KNOWN AS
RURAL ROUTE 3, BOX 209-L,
CITY OF SAPULPA, OKLAHOMA,
CREEK COUNTY,
STATE OF OKLAHOMA,

Defendants.

CIVIL ACTION NO. 89-C-208-E

F I L E D

JAN 21 1991

Jack C. Silver, Clerk
U.S. DISTRICT COURT

AGREED JUDGMENT OF FORFEITURE

Based on the Stipulation for Compromise signed May 7, 1990, and filed May 17, 1990, as to the defendant real property, and the Stipulation of Dismissal as to the defendant currency filed August 8, 1990,

IT IS HEREBY ORDERED AND ADJUDGED:

1) That this action be dismissed without prejudice; each party to bear its own costs;

2) That the sum of \$2,500.00 is forfeited to the United States of America for disposition by the United States Marshals Service, according to law, in lieu of forfeiture of the defendant real property.

3) That the \$2,500.00 forfeited to the United States of America by Wiladean Boone, in lieu of forfeiture of the defendant real property, shall be paid to the Asset Forfeiture Fund of the United States Marshals Service by withholding said amount from the \$10,000.00 in United States Currency seized herein.

4) That the United States Marshals Service shall return to James Charles Boone the \$1,000.00 bond he posted in this matter, by delivering such funds to his wife, Wiladean Boone.

5) That the United States Marshals Service shall release the defendant real property known as Rural Route 3, Box 209-L, Sapulpa, Oklahoma, to the Claimant Wiladean Boone.

S/ JAMES O. ELLISON

JAMES O. ELLISON

United States District Judge for the
Northern District of Oklahoma

APPROVED THIS 23rd DAY OF
January, 1991.


Wiladean Boone

APPROVED THIS 23rd DAY OF
January, 1991.

JAMES CHARLES BOONE

BY: *Wiladean Boone*
WILADEAN BOONE,
Attorney In Fact

APPROVED THIS 23rd DAY OF
January, 1991.

TONY M. GRAHAM
United States Attorney for the
Northern District of Oklahoma

Catherine J. Depew
CATHERINE J. DEPEW
Assistant United States Attorney

CJD/ch
00834

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 28 1991

Jack C. Silver, Clerk
U.S. DISTRICT COURT

BEULAH M. LONGENECKER and
HOMER I. LONGENECKER,

Plaintiff,

vs.

FIRST SECURITY MORTGAGE
COMPANY; RESOLUTION TRUST
CORPORATION as Receiver of
Cross Roads Savings and Loan,
a state banking association;
PETE MARCUS YOUNG; and
TERRY GARTSIDE REALTORS,

Defendants,

and

CROSS ROADS SAVINGS AND LOAN
F.A., by and through its
Conservator the Resolution
Trust Corporation,

Cross-Claimant.

NO. 89-C-667-B

ORDER

NOW on this 28th day of January, 1991, upon Request by the Resolution Trust Corporation ("RTC") in its separate capacity as Receiver for Defendant, Cross Roads Savings and Loan Association and as Receiver for Cross-Defendant, Cross Roads Savings and Loan Association, F.A., and for good cause shown, this Court hereby dismisses the RTC's Alternative Cross-Claim Against Defendant, First Security Mortgage Company without prejudice as to the refiling of same.


UNITED STATES DISTRICT JUDGE

F I L E D

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

JAN 28 1991

IN RE:

ASBESTOS LITIGATION

M- 1417

Jack C. Silver, Clerk
U.S. DISTRICT COURT

ASB No. 5317

TROY C. WILLIAMS and
OLETA WILLIAMS,

Case No. 88-C-103-B

WEYBURN D. WILSON and
DELLA WILSON,

Case No. 88-C-104-B

CHESTER OSBORN and
GLADYS OSBORN,

Case No. 88-C-105-E

IVAN RAMSEY and
KATHERINE RAMSEY,

Case No. 88-C-106-E

GUFFREY CARLTON and
BESSIE CARLTON,

Case No. 88-C-112-B

DON A. STOCKTON,

Case No. 88-C-208-B

LEONARD A. BALLENGER and
NORMA L. BALLENGER,

Case No. 88-C-209-E

GERALD D. NICKS and
ALBERTA NICKS,

Case No. 88-C-304-B

LINLEY O'BANION and
MOZELLE O'BANION,

Case No. 88-C-385-B

Plaintiffs,

vs.

FIBREBOARD CORPORATION, ET AL.

Defendants.

AGREED ORDER OF DISMISSAL WITH PREJUDICE

5319


Indiv 020
CCL


ON THIS DAY came on to be heard the above-styled and numbered cause, and came Plaintiffs and Defendant, THE CELOTEX CORPORATION, and announced to the court that all claims by Plaintiffs against Defendant THE CELOTEX CORPORATION have been fully compromised and settled, and that said Plaintiffs have given or will give to THE CELOTEX CORPORATION a final release of all claims and causes of action herein. It is therefore,

ORDERED, ADJUDGED and DECREED by the court that Plaintiffs recover nothing from Defendant, THE CELOTEX CORPORATION by this action and that Plaintiffs' claims against THE CELOTEX CORPORATION in the above-styled and numbered cause be, and the same is hereby, DISMISSED WITH PREJUDICE to the refiling of same in any form. It is further,

ORDERED, ADJUDGED and DECREED by the court that each party be taxed its own costs of court.

SIGNED this 28th day of January, 1990.


JAMES O. ELLISON
United States District Judge


THOMAS R. BRETT
United States District Judge

AGREED AND APPROVED:

UNGERMAN & IOLA

BY: 

Mark Iola

Bar No. 4553

P.O. Box 701917

1323 E. 71st Street

Suite 300

Tulsa, Oklahoma 74170-1917

(918) 495-0555

Attorney for Plaintiffs

COMFORT, LIPE & GREEN

BY: 

Kevin Gassaway

Bar No. 3281

2100 Mid-Continent Tower

401 South Boston

Tulsa, Oklahoma 74103

(918) 599-1926

Attorney for Defendant

THE CELOTEX CORPORATION

DG119065

IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 28 1991

Jack C. Silver, Clerk
U.S. DISTRICT COURT

IN RE:

ASBESTOS CASES

DON STOCKTON,

Plaintiff,

vs.

FIBREBOARD CORP., ET AL.,

Defendants.

M-1417

ASB (I) - 5317 /

No. 88-C-108-B

ORDER GRANTING DISMISSAL OF DEFENDANT
OWENS ILLINOIS, INC. WITH PREJUDICE

The Court being in receipt of the Application of Plaintiff and the Defendant Owens Illinois, Inc., requesting of the Court an approval of the dismissal of Defendant Owens Illinois, Inc., with prejudice from the above-captioned matter.

And being fully advised in the premises,

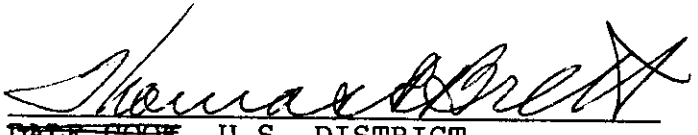
IT IS HEREBY ORDERED:

That the joint application of Plaintiff and Defendant Owens Illinois, Inc. only is granted. The Court finds that Defendant Owens Illinois, Inc. only should be dismissed with prejudice to filing future suit and it is ordered by the Court that Defendant Owens Illinois, Inc. only is hereby dismissed as party Defendant from the case set forth above with prejudice to refile suit.


It is further ordered by the Court that each party will be responsible for its own costs, attorney fees, and any other expenses incurred by the parties that pertain to this litigation.

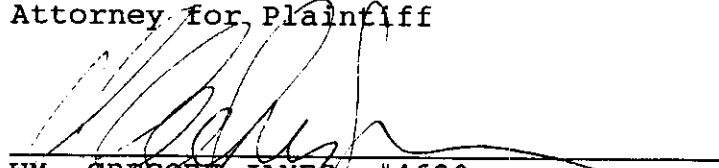
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~~DALE COOK~~, U.S. DISTRICT
JUDGE, Thomas R. Brett

APPROVED AS TO FORM:


MARK IOLA, OBA #4553
Ungerman & Iola
Attorney for Plaintiff


WM. GREGORY JAMES, #4620
Pray, Walker, Jackman, Williamson
& Maglar
Attorney for Defendant Owens Illinois

IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE NORTHERN DISTRICT OF OKLAHOMA

IN RE:

ASBESTOS CASES

GUFFREY CARLTON, ET AL.

Plaintiffs,

vs.

FIBREBOARD CORP., ET AL.,

Defendants.

M-1417

ASB (I) -

5318

FILED

JAN 28 1991

Jack C. Silver, Clerk
U.S. DISTRICT COURT

No. 88-C-112-B

ORDER GRANTING DISMISSAL OF DEFENDANT
OWENS ILLINOIS, INC. WITH PREJUDICE

The Court being in receipt of the Application of Plaintiffs and the Defendant Owens Illinois, Inc., requesting of the Court an approval of the dismissal of Defendant Owens Illinois, Inc., with prejudice from the above-captioned matter.

And being fully advised in the premises,

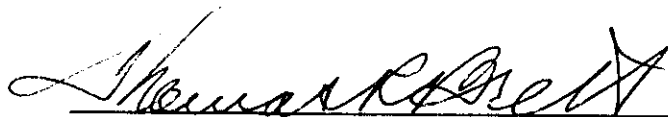
IT IS HEREBY ORDERED:

That the joint application of Plaintiffs and Defendant Owens Illinois, Inc. only is granted. The Court finds that Defendant Owens Illinois, Inc. only should be dismissed with prejudice to filing future suit and it is ordered by the Court that Defendant Owens Illinois, Inc. only is hereby dismissed as party Defendant from the case set forth above with prejudice to refile suit.

It is further ordered by the Court that each party will be responsible for its own costs, attorney fees, and any other expenses incurred by the parties that pertain to this litigation.

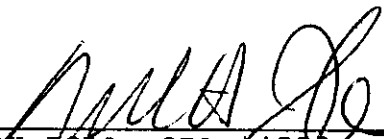
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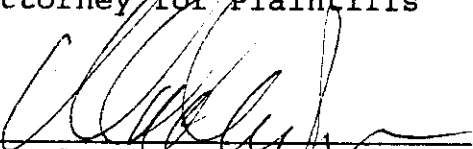


THOMAS BRETT, U.S. DISTRICT
JUDGE

APPROVED AS TO FORM:



MARK IOLA, OBA #4559
Ungerman & Iola
Attorney for Plaintiffs



WM. GREGORY JAMES, #4620
Pray, Walker, Jackman, Williamson
& Marger
Attorney for Defendant Owens Illinois

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,
Plaintiff,

vs.

CALVIN L. JOHNSON; RANDY L.
HIGGINS; DELORIS F. HIGGINS;
MAX V. CAMPBELL; COLLEEN
CAMPBELL; HARRY SHAIA, JR., as
Trustee in Bankruptcy of
Freedlander, Inc., The Mortgage
People; NCNB NATIONAL BANK OF
NORTH CAROLINA; LAWRENCE D.
TAYLOR; LOMAS MORTGAGE USA,
INC., Successor to The Lomas
and Nettleton Company; COUNTY
TREASURER, Tulsa County,
Oklahoma; BOARD OF COUNTY
COMMISSIONERS, Tulsa County,
Oklahoma; STATE OF OKLAHOMA
ex rel. OKLAHOMA TAX COMMISSION,

Defendants.

CIVIL ACTION NO. 90-C-422-B

FILED

JAN 28 1991

Jack C. Silver, Clerk
U.S. DISTRICT COURT

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 26 day
of January, 1990. The Plaintiff appears by Tony M.
Graham, United States Attorney for the Northern District of
Oklahoma, through Peter Bernhardt, Assistant United States
Attorney; the Defendants, County Treasurer, Tulsa County,
Oklahoma, and Board of County Commissioners, Tulsa County,
Oklahoma, appear by J. Dennis Semler, Assistant District
Attorney, Tulsa County, Oklahoma; the Defendant, Harry Shaia,
Jr., as Trustee in Bankruptcy of Freedlander, Inc., The Mortgage
People, appears by his attorney David H. Adams; the Defendant,
State of Oklahoma ex rel. Oklahoma Tax Commission, appears by its
attorney Lisa Haws; the Defendants, Max V. Campbell, Colleen

Campbell, NCNB National Bank of North Carolina, and Lomas Mortgage USA, Inc., Successor to The Lomas and Nettleton Company, appear not, having previously filed their Disclaimers; and the Defendants, Calvin L. Johnson, Randy L. Higgins, Deloris F. Higgins, and Lawrence D. Taylor, appear not, but make default.

The Court being fully advised and having examined the court file finds that the Defendant, Calvin L. Johnson, was served with Summons and Amended Complaint on August 3, 1990; that the Defendant, Randy L. Higgins, acknowledged receipt of Summons and Complaint on May 19, 1990; that the Defendant, Deloris F. Higgins, acknowledged receipt of Summons and Amended Complaint on September 19, 1990; that the Defendants, Max V. Campbell and Colleen Campbell, acknowledged receipt of Summons and Amended Complaint on June 5, 1990; that the Defendant, Harry Shaia, Jr., as Trustee in Bankruptcy of Freedlander, Inc., The Mortgage People, acknowledged receipt of Summons and Complaint on June 11, 1990 and Summons and Amended Complaint on June 18, 1990; that the Defendant, Lawrence D. Taylor, was served with Summons and Amended Complaint on July 31, 1990; that the Defendant, Lomas Mortgage USA, Inc., Successor to The Lomas and Nettleton Company, acknowledged receipt of Summons and Complaint on June 4, 1990; that Defendant, County Treasurer, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on May 18, 1990; that Defendant, Board of County Commissioners, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on May 18, 1990; that the Defendant, State of Oklahoma ex rel. Oklahoma Tax Commission, acknowledged receipt of Summons and Amended Complaint on June 6, 1990.

It appears that the Defendants, County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma, filed their Answers on June 6, 1990; that the Defendants, Max V. Campbell and Colleen Campbell, filed their Disclaimer on July 10, 1990; that the Defendant, Harry Shaia, Jr., as Trustee in Bankruptcy of Freedlander, Inc., The Mortgage People, filed his Answer on June 15, 1990; that the Defendant, NCNB National Bank of North Carolina, filed its Disclaimer on July 24, 1990; that the Defendant, Lomas Mortgage USA, Inc., Successor to The Lomas and Nettleton Company, filed its Disclaimer on June 8, 1990; that the Defendant, State of Oklahoma ex rel. Oklahoma Tax Commission, filed its Answer on June 18, 1990; and that the Defendants, Calvin L. Johnson, Randy L. Higgins, Deloris F. Higgins, and Lawrence D. Taylor, have failed to answer and their default has therefore been entered by the Clerk of this Court.

The Court further finds that this is a suit based upon a certain mortgage note and for foreclosure of a mortgage securing said mortgage note upon the following described real property located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Fifty-five (55), Block Two (2), in SUBURBAN ACRES THIRD ADDITION to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

The Court further finds that on June 30, 1981, the Defendant, Calvin L. Johnson, executed and delivered to the United States of America, acting on behalf of the Administrator

of Veterans Affairs, now known as Secretary of Veterans Affairs, his mortgage note in the amount of \$18,325.00, payable in monthly installments, with interest thereon at the rate of thirteen and one-half percent (13.5%) per annum.

The Court further finds that as security for the payment of the above-described note, the Defendant, Calvin L. Johnson, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, now known as Secretary of Veterans Affairs, a mortgage dated June 30, 1981, covering the above-described property. Said mortgage was recorded on September 2, 1981, in Book 4566, Page 2160, in the records of Tulsa County, Oklahoma.

The Court further finds that the Defendant, Calvin L. Johnson, made default under the terms of the aforesaid note and mortgage by reason of his failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendant, Calvin L. Johnson, is indebted to the Plaintiff in the principal sum of \$18,895.57, plus interest at the rate of 13.5 percent per annum from June 1, 1988 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action in the amount of \$29.36 (\$20.00 docket fees, \$9.36 fees for service of Summons and Complaint).

The Court further finds that the Defendant, State of Oklahoma ex rel. Oklahoma Tax Commission, has a lien on the property which is the subject matter of this action in the amount

of \$70.24 plus interest and penalty according to law, by virtue of Income Tax Warrant No. ITI8901785900 dated September 20, 1989.

The Court further finds that the Defendants, Harry Shaia, Jr., as Trustee in Bankruptcy of Freedlander, Inc., The Mortgage People and County Treasurer and Board of County Commissioners, Tulsa County, Oklahoma, claim no right, title or interest in the subject real property.

The Court further finds that the Defendants, Max V. Campbell, Colleen Campbell, NCNB National Bank of North Carolina, and Lomas Mortgage USA, Inc., Successor to The Lomas and Nettleton Company, disclaim any right, title, and interest in the subject real property.

The Court further finds that the Defendants, Randy L. Higgins, Deloris F. Higgins, and Lawrence D. Taylor, are in default and therefore have no right, title, or interest in the subject real property.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against Defendant, Calvin L. Johnson, in the principal sum of \$18,895.57, plus interest at the rate of 13.5 percent per annum from June 1, 1988 until judgment, plus interest thereafter at the current legal rate of 6.62 percent per annum until paid, plus the costs of this action in the amount of \$29.36 (\$20.00 docket fees, \$9.36 fees for service of Summons and Complaint), plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, State of Oklahoma ex rel. Oklahoma Tax Commission, have and recover judgment in the amount of \$70.24 plus interest and penalty according to law, by virtue of Income Tax Warrant No. ITI8901785900 dated September 20, 1989.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, Randy L. Higgins, Deloris F. Higgins, Max V. Campbell, Colleen Campbell, Harry Shaia, Jr., as Trustee in Bankruptcy of Freedlander, Inc., The Mortgage People, NCNB National Bank of North Carolina, Lawrence D. Taylor, Lomas Mortgage USA, Inc., Successor to The Lomas and Nettleton Company, and County Treasurer and Board of County Commissioners, Tulsa County, Oklahoma, have no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendant, Calvin L. Johnson, to satisfy the money judgment of the Plaintiff herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisement the real property involved herein and apply the proceeds of the sale as follows:

First:

In payment of the costs of this action accrued and accruing incurred by the Plaintiff, including the costs of sale of said real property;

Second:

In payment of the judgment rendered herein
in favor of the Plaintiff;

Third:

In payment of Defendant, State of Oklahoma
ex rel. Oklahoma Tax Commission, in the
amount of \$70.24 plus interest and penalty
according to law.

The surplus from said sale, if any, shall be deposited with the
Clerk of the Court to await further Order of the Court.

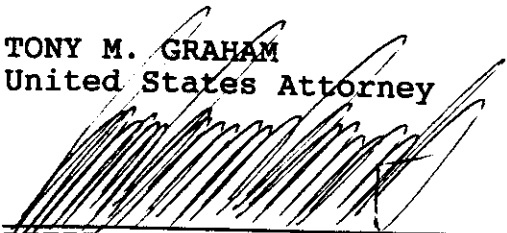
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from
and after the sale of the above-described real property, under
and by virtue of this judgment and decree, all of the Defendants
and all persons claiming under them since the filing of the
Complaint, be and they are forever barred and foreclosed of any
right, title, interest or claim in or to the subject real
property or any part thereof.

S/ THOMAS R. BRETT

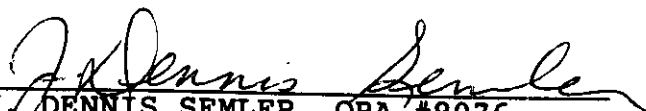
UNITED STATES DISTRICT JUDGE


APPROVED:


TONY M. GRAHAM
United States Attorney



PETER BERNHARDT, OBA #741
Assistant United States Attorney
3600 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463


J. DENNIS SEMLER, OBA #8076
Assistant District Attorney
Attorney for Defendants,
County Treasurer and
Board of County Commissioners,
Tulsa County, Oklahoma


DAVID H. ADAMS, OBA #
Attorney for Defendant,
Harry Shaia, Jr., as Trustee in
Bankruptcy of Freedlander, Inc., The Mortgage People


LISA HAWS, OBA #12695
Attorney for Defendant,
State of Oklahoma ex rel. Oklahoma Tax Commission

Judgment of Foreclosure
Civil Action No. 90-C-422-B

PB/css

participating in the Thrift Plan effective May 6, 1983, and shall cause such employment and Thrift Plan participation of Plaintiff to be recognized as continuous from such date through September 30, 1988, and with respect to such Thrift Plan participation until Plaintiff's Thrift Plan Account shall have been distributed to him pursuant to the terms of this Order;

(b) Within thirty (30) days of the date of this Order: (i) Plaintiff shall pay \$84,490 into the Thrift Plan, and (ii) Cities shall then immediately cause \$84,490 to be paid into the Thrift Plan by OXY USA Inc. The payment by Plaintiff to the Thrift Plan shall be recognized as allotments made nunc pro tunc for the period from May 6, 1983 through September 30, 1988. The payment by OXY USA Inc. shall be recognized to include contributions to the Thrift Plan made nunc pro tunc for the above-mentioned period. Promptly after the above-mentioned \$168,980 shall have been paid into the Thrift Plan, Cities shall cause it to be recognized that Plaintiff is entitled to receive a distribution of his entire Thrift Plan Account;

(c) Not later than thirty (30) days after both of the above-mentioned payments shall have been made into the Thrift Plan, the Thrift Plan Administrative

Committee shall cause a cash distribution of Plaintiff's Account to be made to Plaintiff pursuant to this Order; and

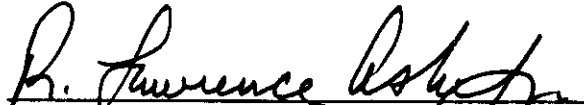
(d) Cities shall cause to be executed any document and/or make any amendment to the text of the Thrift Plan which shall be necessary or in its judgment advisable for the carrying out of this Order.

IT IS HEREBY SO ORDERED AND ADJUDGED, this 28 day of January, 1991.

(Signed) N. Dale Cook

United States District Court
Northern District of Oklahoma


CONSENTED TO:



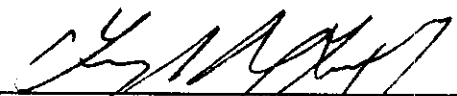
R. Lawrence Ashe, Jr. Esq.
PAUL, HASTINGS, JANOFSKY
& WALKER
4200 Georgia-Pacific Center
133 Peachtree Street, N.E.
Atlanta, Georgia 30303
(404) 588-9900

Attorney for Plaintiff

[Signatures continued on following page]



Ronald A. Skoller, Esq.
OXY USA Inc.
110 West 7th Street
Tulsa, Oklahoma 74119
(918) 561-4914



Graydon Dean Lathey, Jr., Esq.
JONES, GIVENS, GOTCHER & BOGAN
3800 First National Tower
Tulsa, Oklahoma 74103
(918) 581-8200

Attorneys for Defendants

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA JAN 28 1991

DELORES CARALLUZZO,
Plaintiff,

vs.

UNITED STATES OF AMERICA,
Defendant.

Jack C. Silver, Clerk
U.S. DISTRICT COURT

No. 91-C-4-E ✓


89-CR-144-01-E

ORDER DENYING MOTION TO VACATE AND
ORDER GRANTING MOTION FOR
LEAVE TO APPEAL IN FORMA PAUPERIS

Now before the Court for its consideration is the Motion of Plaintiff to Vacate Pursuant to 28 U.S.C. §2255 and the motion of Plaintiff for leave to appeal in forma pauperis, and the notice of intent to appeal to the United States Court of Appeals for the Tenth Circuit, this Court's Order of July 3, 1990. The Motion to Vacate should be denied. The Court is of the opinion and certifies that the desired appeal is taken in good faith. 28 U.S.C.A. 1915(a).

IT IS THEREFORE ORDERED that Plaintiff's Motion to Vacate is denied. It is further ORDERED that leave to appeal in forma pauperis is hereby granted.

ORDERED this 24th day of January, 1991.


JAMES C. ELLISON
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

F I L E D

JAN 28 1991

ROBERTA J. GURLEY and)
SEREDA CHRISTINE SUMMERTON,)
)
Plaintiffs,)
)
vs.)
)
AUTOMOBILE CLUB INSURANCE)
COMPANY, an Ohio Corporation)
and AMERICAN NATIONAL)
INSURANCE COMPANY, a Texas)
Corporation,)
)
Defendants.)

Jack C. Silver, Clerk
U.S. DISTRICT COURT

Case No. 90-C-250 B

O R D E R
FOR
DISMISSAL WITH PREJUDICE

NOW ON this 28 day of January, 1991, the
Plaintiff, Sereda Christine Summerton's Application for Dismissal
With Prejudice comes on before me, the undersigned United States
District Court Judge. The Court finds that all of the issues
between the Plaintiff, Sereda Christine Summerton and Defendant,
Automobile Club Insurance Company, have been completely settled and
compromised and, therefore, dismisses with prejudice the claim of
Plaintiff, Sereda Christine Summerton, against the Defendant,
Automobile Club Insurance Company, as to any future action.

IT IS SO ORDERED.

S/ THOMAS R. BRETT
HONORABLE THOMAS R. BRETT,
U.S. DISTRICT COURT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 28 1991

STEVE W. LOFFER,
Plaintiff,

Jack C. Silver, Clerk
U.S. DISTRICT COURT

vs.

No. 90-C-975-C

MISSOURI PACIFIC RAILROAD COMPANY,
d/b/a UNION PACIFIC RAILROAD
COMPANY, a foreign corporation,

Defendant.

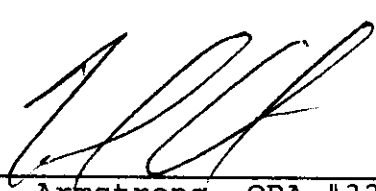
OF
STIPULATION FOR DISMISSAL WITHOUT PREJUDICE

COMES NOW the Parties to the above-captioned action, by and through their respective attorneys, and stipulate that the above action is to be dismissed without prejudice as to its refiling.


Jefferson G. Greer
GREER & GREER

201 West Fifth, Suite 440
Tulsa, Oklahoma 74103-4212
(918) 587-4436

ATTORNEYS FOR PLAINTIFF


Tom L. Armstrong, OBA #329
Logan V. Moss, OBA #6463
Jeannie C. Henry, OBA #12331
TOM L. ARMSTRONG & ASSOCIATES
601 South Boulder, Suite 706
Tulsa, Oklahoma 74119
(918) 587-3939

ATTORNEYS FOR DEFENDANT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

~~FILED~~

~~JAN 28 1991~~

~~Jack C. Silver, Clerk
DISTRICT COURT~~

DARRELL CRAWFORD and MARK
GERNHARDT,

Plaintiffs,

v.

Case No. 90-C-668-E

GRAPHICS UNIVERSAL, INC.,
GRAPHICS UNIVERSAL, INC.
EMPLOYEE STOCK OWNERSHIP PLAN
AND TRUST and LEON CALVERT,
Individually and as Trustee of
the GRAPHICS UNIVERSAL, INC.
EMPLOYEE STOCK OWNERSHIP PLAN
AND TRUST,

Defendants.

~~FILED~~
~~JAN 28 1991~~
~~DISTRICT COURT~~

JOINT STIPULATION OF DISMISSAL WITH PREJUDICE

The parties, by and through their respective attorneys, inform the Court that they have reached a settlement of this action and stipulate that this action should be dismissed with prejudice, with each party to bear its own costs and attorney fees.

DATED this 25th day of January, 1991.

HALL, ESTILL, HARDWICK, GABLE,
GOLDEN & NELSON, P.C.

By: *R. Mark Solano*

R. Mark Solano, OBA #11170
4100 Bank of Oklahoma Tower
One Williams Center
Tulsa, Oklahoma 74172
(918) 588-2678

ATTORNEYS FOR DEFENDANT

and

GABLE & GOTWALS

By: Tutts Den
J. Ronald Petrikin, OBA #7092
Timothy A. Carney, OBA #11784
2000 Fourth National Bank Bldg.
Tulsa, Oklahoma 74119
(918) 582-9201

ATTORNEYS FOR PLAINTIFFS

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,
Plaintiff,

vs.

CHARLES JACKSON TYLER; REBECCA
SUE TYLER; TIMOTHY BRANCH;
MALISSA BRANCH; COUNTY TREASURER,
Washington County, Oklahoma; and
BOARD OF COUNTY COMMISSIONERS,
Washington County, Oklahoma,

Defendants.

F I L E D

JAN 28 1991

Jack C. Silver, Clerk
U.S. DISTRICT COURT

CIVIL ACTION NO. 90-C-741-E

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 23 day
of Jan, 1991. The Plaintiff appears by Tony M.
Graham, United States Attorney for the Northern District of
Oklahoma, through Phil Pinnell, Assistant United States Attorney;
the Defendants, Charles Jackson Tyler, Rebecca Sue Tyler, Timothy
Branch, Malissa Branch, County Treasurer, Washington County,
Oklahoma, and Board of County Commissioners, Washington County,
Oklahoma, appear not, but make default.

The Court being fully advised and having examined the
court file finds that the Defendant, Charles Jackson Tyler,
acknowledged receipt of Summons and Complaint on September 14,
1990; that the Defendant, Rebecca Sue Tyler, acknowledged receipt
of Summons and Complaint on September 14, 1990; that Defendant,
County Treasurer, Washington County, Oklahoma, acknowledged
receipt of Summons and Complaint on September 12, 1990; and that
Defendant, Board of County Commissioners, Washington County,

Oklahoma, acknowledged receipt of Summons and Complaint on September 12, 1990.

The Court further finds that the Defendants, Timothy Branch and Malissa Branch, were served by publishing notice of this action in the Bartlesville Examiner-Enterprise, a newspaper of general circulation in Washington County, Oklahoma, once a week for six (6) consecutive weeks beginning November 1, 1990, and continuing through December 6, 1990, as more fully appears from the verified proof of publication duly filed herein; and that this action is one in which service by publication is authorized by 12 O.S. Section 2004(c)(3)(c). Counsel for the Plaintiff does not know and with due diligence cannot ascertain the whereabouts of the Defendants, Timothy Branch and Malissa Branch, and service cannot be made upon said Defendants within the Northern Judicial District of Oklahoma or the State of Oklahoma by any other method, or upon said Defendants without the Northern Judicial District of Oklahoma or the State of Oklahoma by any other method, as more fully appears from the evidentiary affidavit of a bonded abstracter filed herein with respect to the last known addresses of the Defendants, Timothy Branch and Malissa Branch. The Court conducted an inquiry into the sufficiency of the service by publication to comply with due process of law and based upon the evidence presented together with affidavit and documentary evidence finds that the Plaintiff, United States of America, acting on behalf of the Secretary of Veterans Affairs, and its attorneys, Tony M. Graham, United States Attorney for the Northern District of Oklahoma, through

Phil Pinnell, Assistant United States Attorney, fully exercised due diligence in ascertaining the true name and identity of the parties served by publication with respect to their present or last known places of residence and/or mailing addresses. The Court accordingly approves and confirms that the service by publication is sufficient to confer jurisdiction upon this Court to enter the relief sought by the Plaintiff, both as to subject matter and the Defendants served by publication.

It appears that the Defendants, Charles Jackson Tyler, Rebecca Sue Tyler, Timothy Branch, Malissa Branch, County Treasurer, Washington County, Oklahoma, and Board of County Commissioners, Washington County, Oklahoma, have failed to answer and their default has therefore been entered by the Clerk of this Court.

The Court further finds that this is a suit based upon a certain mortgage note and for foreclosure of a mortgage securing said mortgage note upon the following described real property located in Washington County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Ten (10), Block Three (3), Federal Homes
Addition to the City of Bartlesville,
Oklahoma.

The Court further finds that on February 15, 1973, the Defendant, Charles Jackson Tyler, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, now known as Secretary of Veterans Affairs, his mortgage note in the amount of \$6,250.00, payable in monthly installments, with interest thereon at the rate of seven and one-half percent (7.5%) per annum.

The Court further finds that as security for the payment of the above-described note, the Defendant, Charles Jackson Tyler, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, now known as Secretary of Veterans Affairs, a mortgage dated February 15, 1973, covering the above-described property. Said mortgage was recorded on February 16, 1973, in Book 603, Page 305, in the records of Washington County, Oklahoma.

The Court further finds that the Defendant, Charles Jackson Tyler, made default under the terms of the aforesaid note and mortgage by reason of his failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendant, Charles Jackson Tyler, is indebted to the Plaintiff in the principal sum of \$4,537.72, plus interest at the rate of 7.5 percent per annum from April 1, 1989 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action in the amount of \$245.00 (\$20.00 docket fees, \$217.00 publication fees, \$8.00 fee for recording Notice of Lis Pendens).

The Court further finds that the Defendants, Rebecca Sue Tyler, Timothy Branch, Malissa Branch, and County Treasurer and Board of County Commissioners, Washington County, Oklahoma, are in default and have no right, title or interest in the subject real property.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendant, Charles Jackson Tyler, in the principal sum of \$4,537.72, plus

interest at the rate of 7.5 percent per annum from April 1, 1989 until judgment, plus interest thereafter at the current legal rate of 6.62 percent per annum until paid, plus the costs of this action in the amount of \$245.00 (\$20.00 docket fees, \$217.00 publication fees, \$8.00 fee for recording Notice of Lis Pendens), plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, Rebecca Sue Tyler, Timothy Branch, Malissa Branch, and County Treasurer and Board of County Commissioners, Washington County, Oklahoma, have no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendant, Charles Jackson Tyler, to satisfy the money judgment of the Plaintiff herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisement the real property involved herein and apply the proceeds of the sale as follows:

First:

In payment of the costs of this action accrued and accruing incurred by the Plaintiff, including the costs of sale of said real property;

Second:

In payment of the judgment rendered herein
in favor of the Plaintiff.

The surplus from said sale, if any, shall be deposited with the
Clerk of the Court to await further Order of the Court.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from
and after the sale of the above-described real property, under
and by virtue of this judgment and decree, all of the Defendants
and all persons claiming under them since the filing of the
Complaint, be and they are forever barred and foreclosed of any
right, title, interest or claim in or to the subject real
property or any part thereof.

BY JAMES O. ELISON
UNITED STATES DISTRICT JUDGE

APPROVED:

TONY M. GRAHAM
United States Attorney

Phil Pinnell
PHIL PINNELL, OBA #7169
Assistant United States Attorney
3600 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463

Judgment of Foreclosure
Civil Action No. 90-C-741-E

PP/css

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,
Plaintiff,

vs.

JOHN L. HAYMAN a/k/a JOHN
LAWRENCE HAYMAN; REBECCA J.
HAYMAN a/k/a REBECCA JANINE
HAYMAN; COUNTY TREASURER, Creek
County, Oklahoma; and BOARD OF
COUNTY COMMISSIONERS, Creek
County, Oklahoma,

Defendants.

FILED

JAN 28 1991

Jack C. Silver, Clerk
U.S. DISTRICT COURT

CIVIL ACTION NO. 90-C-798-B

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 28 day
of January, 1991. The Plaintiff appears by Tony M.
Graham, United States Attorney for the Northern District of
Oklahoma, through Peter Bernhardt, Assistant United States
Attorney; the Defendants, County Treasurer and Board of County
Commissioners, Creek County, Oklahoma, appear not, having
previously filed their Disclaimer; and the Defendants, John L.
Hayman a/k/a John Lawrence Hayman and Rebecca J. Hayman a/k/a
Rebecca Janine Hayman, appear not, but make default.

The Court, being fully advised and having examined the
court file, finds that the Defendant, County Treasurer, Creek
County, Oklahoma, acknowledged receipt of Summons and Complaint
on September 19, 1990; and that the Defendant, Board of County
Commissioners, Creek County, Oklahoma, acknowledged receipt of
Summons and Complaint on September 18, 1990.

The Court further finds that the Defendants, John L.
Hayman a/k/a John Lawrence Hayman and Rebecca J. Hayman a/k/a

Rebecca Janine Hayman, were served by publishing notice of this action in the Sapulpa Legal News, a newspaper of general circulation in Creek County, Oklahoma, once a week for six (6) consecutive weeks beginning October 18, 1990, and continuing to November 22, 1990, as more fully appears from the verified proof of publication duly filed herein; and that this action is one in which service by publication is authorized by 12 O.S. Section 2004(c)(3)(c). Counsel for the Plaintiff does not know and with due diligence cannot ascertain the whereabouts of the Defendants, John L. Hayman a/k/a John Lawrence Hayman and Rebecca J. Hayman a/k/a Rebecca Janine Hayman, and service cannot be made upon said Defendants within the Northern Judicial District of Oklahoma or the State of Oklahoma by any other method, or upon said Defendants without the Northern Judicial District of Oklahoma or the State of Oklahoma by any other method, as more fully appears from the evidentiary affidavit of a bonded abstracter filed herein with respect to the last known addresses of the Defendants, John L. Hayman a/k/a John Lawrence Hayman and Rebecca J. Hayman a/k/a Rebecca Janine Hayman. The Court conducted an inquiry into the sufficiency of the service by publication to comply with due process of law and based upon the evidence presented together with affidavit and documentary evidence finds that the Plaintiff, United States of America, acting on behalf of the Farmers Home Administration, and its attorneys, Tony M. Graham, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, fully exercised due diligence in ascertaining the true

name and identity of the parties served by publication with respect to their present or last known places of residence and/or mailing addresses. The Court accordingly approves and confirms that the service by publication is sufficient to confer jurisdiction upon this Court to enter the relief sought by the Plaintiff, both as to subject matter and the Defendants served by publication.

It appears that the Defendants, County Treasurer, Creek County, Oklahoma, and Board of County Commissioners, Creek County, Oklahoma, filed their Disclaimer on October 2, 1990; and that the Defendants, John L. Hayman a/k/a John Lawrence Hayman and Rebecca J. Hayman a/k/a Rebecca Janine Hayman, have failed to answer and their default has therefore been entered by the Clerk of this Court.

The Court further finds that on December 31, 1986, John Lawrence Hayman and Rebecca Janine Hayman filed their voluntary petition in bankruptcy in Chapter 7 in the United States Bankruptcy Court, Northern District of Oklahoma, Case No. 86-03696 and were discharged on May 5, 1987.

The Court further finds that this is a suit based upon a certain mortgage note and for foreclosure of a mortgage securing said mortgage note upon the following described real property located in Creek County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot 6, Block 5, QUAIL VIEW WEST ADDITION to
the City of Bristow in Creek County, State of

Oklahoma, according to the Recorded Plat thereof.

The Court further finds that on February 23, 1983, the Defendants, John L. Hayman and Rebecca J. Hayman, executed and delivered to the United States of America, acting through the Farmers Home Administration, their mortgage note in the amount of \$36,500.00, payable in monthly installments, with interest thereon at the rate of 12.5 percent (12.5%) per annum.

The Court further finds that as security for the payment of the above-described note, the Defendants, John L. Hayman and Rebecca J. Hayman, executed and delivered to the United States of America, acting through Farmers Home Administration, a mortgage dated February 23, 1983, covering the above-described property. Said mortgage was recorded on February 24, 1983, in Book 131, Page 1923, in the records of Creek County, Oklahoma.

The Court further finds that the Defendants, John L. Hayman a/k/a John Lawrence Hayman and Rebecca J. Hayman a/k/a Rebecca Janine Hayman, made default under the terms of the aforesaid note and mortgage by reason of their failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendants, John L. Hayman a/k/a John Lawrence Hayman and Rebecca J. Hayman a/k/a Rebecca Janine Hayman, are indebted to the Plaintiff in the principal sum of \$38,486.48, plus accrued interest in the amount of \$17,649.08 as of May 15, 1990, plus interest accruing thereafter at the rate of \$13.1803 per day until judgment, plus

interest thereafter at the legal rate until fully paid, and the costs of this action in the amount of \$231.50 (\$20.00 docket fees, \$203.50 publication fees, \$8.00 fee for recording Notice of Lis Pendens).

The Court further finds that the Defendants, County Treasurer and Board of County Commissioners, Creek County, Oklahoma, claim no right, title or interest in the subject real property.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment in rem against the Defendants, John L. Hayman a/k/a John Lawrence Hayman and Rebecca J. Hayman a/k/a Rebecca Janine Hayman, in the principal sum of \$38,486.48, plus accrued interest in the amount of \$17,649.08 as of May 15, 1990, plus interest accruing thereafter at the rate of \$13.1803 per day until judgment, plus interest thereafter at the current legal rate of 6.62 percent per annum until paid, plus the costs of this action in the amount of \$231.50 (\$20.00 docket fees, \$203.50 for Publication fees, \$8.00 fee for recording Notice of Lis Pendens), plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, County Treasurer and Board of County Commissioners, Creek County, Oklahoma, have no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisement the real property involved herein and apply the proceeds of the sale as follows:

First:

In payment of the costs of this action accrued and accruing incurred by the Plaintiff, including the costs of sale of said real property;

Second:

In payment of the judgment rendered herein in favor of the Plaintiff;

The surplus from said sale, if any, shall be deposited with the Clerk of the Court to await further Order of the Court.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described real property, under and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the Complaint, be and they are forever barred and foreclosed of any right, title, interest or claim in or to the subject real property or any part thereof.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

APPROVED;

TONY M. GRAHAM
United States Attorney



PETER BERNHARDT, OBA #741
Assistant United States Attorney
3600 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463

Judgment of Foreclosure
Civil Action No. 90-C-798-B

PB/esr

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

F I L E D

JAN 28 1991

PRUDENTIAL PROPERTY & CASUALTY
INSURANCE COMPANY,

Plaintiff,

vs.

PAUL BEAN,

Defendant.

Jack C. Silver, Clerk
U.S. DISTRICT COURT

Case No. 90-C-487 B

ORDER

THIS MATTER comes before the Court on the Joint Application of the parties hereto. The Court finds that all of the issues between the parties have been completely settled and compromised, and therefore dismisses the above-entitled cause of action with prejudice as to any future actions.

SO ORDERED this 28 day of Jan, 1991.

S/ THOMAS R. BRETT
U.S. DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 25 1991

RESOLUTION TRUST CORPORATION)
AS CONSERVATOR FOR SAVERS SAVINGS)
ASSOCIATION, a federal mutual)
savings and loan association,)

Jack C. Silver, Clerk
U.S. DISTRICT COURT

Substituted
Plaintiff,)

vs.)

Case No. 89-C-970-B

LARRY W. MCGRAW, and spouse,)
if any; and JOHN and JANE DOE,)
Tenants,)

Defendants.)

JOURNAL ENTRY OF JUDGMENT

NOW, on this 14th day of December, 1990, this cause comes on for pre-trial hearing, the Plaintiff appearing by its attorneys, Robinson, Lewis, Orbison, Smith & Coyle, by Kenneth M. Smith; the Defendant, Larry W. McGraw, appearing not; and it appearing to the Court that this is a suit upon a promissory note and for foreclosure of a mortgage upon real estate securing same, which said real estate is located in the County of Tulsa, State of Oklahoma.

The Court thereupon examined the pleadings, process and files in this cause, and being fully advised in the premises, finds that the Defendants, John and Jane Doe, Tenants, are hereby dismissed from this action as the subject property is vacant.

Thereupon, the Court considered the Motion for Summary Judgment and the Affidavit of Elizabeth Heard filed on behalf of Plaintiff and the pleadings on file herein, and being fully

advised in the premises, finds that there are no questions of fact and that all of the material allegations in Plaintiff's Petition are true and that Plaintiff's Motion for Summary Judgment should be and the same is hereby sustained, and that Defendant, Larry W. McGraw's counterclaims should be dismissed based on the doctrine of D'oench Duhme. The Court then concluded its inquiry into Plaintiff's Motion for Summary Judgment, finds that it complies with Rule 56 of the Rules of the United States District Courts of Oklahoma, and that it should be sustained in accordance with Rule 56 of said Rules.

The Court further finds that the Defendant, Larry W. McGraw, made, executed and delivered the notes and mortgages herein sued upon by the Plaintiff; Plaintiff is the owner and holder of said notes and mortgages, and there is a balance due, owing and unpaid as follows:

Note No. 1 - The sum of \$34,340.40, with accrued interest thereon in the sum of \$8,203.06 through July 9, 1990, with further interest accruing at the rate of \$10.02 per diem, until paid, late charges in the sum of \$330.20, the sum of \$448.00 advanced for property insurance, abstracting fees of \$125.00, title commitment fees of \$508.00, preservation of the property in the amount of \$155.00, 1988 taxes advanced in the amount of \$233.52, 1989 taxes advanced in the amount of \$305.00, together with a reasonable attorneys' fee and all costs of this action;

Note No. 2 - The sum of \$43,897.27, with accrued interest thereon in the sum of \$10,485.96, through July 9, 1990, with further interest accruing at the rate of \$12.80 per diem, until paid, late charges in the sum of \$438.36, the sum of \$257.62 advanced for 1988 property taxes, the sum of \$286.00 advanced for 1989 property taxes, abstracting fees of \$125.00, title commitment fees of \$546.50, preservation of the property in the amount of \$237.00, the sum of \$456.00 advanced for property insurance, together with a reasonable attorneys' fee and all costs of this action;

and that said amounts are secured by said mortgages and constitute first, prior and superior liens upon the real estate and premises hereinafter described and that any and all right, title, or interest which the Defendants in and to this cause, or any or either of them have, or claim to have, in or to said real estate, is subsequent, junior and inferior to the mortgages and liens of this Plaintiff.

The Court further finds that the Defendant, Larry W. McGraw, has made default in the terms and conditions of said notes and mortgages as alleged in Plaintiff's petition and that Plaintiff is entitled to a foreclosure of its mortgages sued upon in this cause, as against all of the Defendants.

The Court further finds that said mortgages expressly waive appraisement or not, at the option of the owner thereof, such option to be exercised at the time judgment is rendered, and Plaintiff hereby elects to have said properties sold with appraisement.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that the Plaintiff have judgment in rem against the Defendants, Larry W. McGraw, and spouse, if any, and each of them, and further judgment in personam against the Defendant, Larry W. McGraw, as follows:

a. Note No. 1 - The sum of \$34,340.40, with accrued interest thereon in the sum of \$8,203.06 through July 9, 1990, with further interest accruing at the rate of \$10.02 per diem, until paid, late charges in the sum of \$330.20, the sum of \$448.00 advanced for property insurance, abstracting fees of \$125.00, title commitment fees of \$508.00, preservation of the

property in the amount of \$155.00, 1988 taxes advanced in the amount of \$233.52, 1989 taxes advanced in the amount of \$305.00;

b. Note No. 2 - The sum of \$43,897.27, with accrued interest thereon in the sum of \$10,485.96, through July 9, 1990, with further interest accruing at the rate of \$12.80 per diem, until paid, late charges in the sum of \$438.36, the sum of \$257.62 advanced for 1988 property taxes, the sum of \$286.00 advanced for 1989 property taxes, abstracting fees of \$125.00, title commitment fees of \$546.50, preservation of the property in the amount of \$237.00, the sum of \$456.00 advanced for property insurance;

that said amounts are secured by said mortgages and constitute good, valid, first, prior and superior liens upon the real estate and premises located in Tulsa County, State of Oklahoma, described as follows, to-wit:

Mortgage No. 1 - Lots Thirty-nine (39) and Forty (40), Block One (1), ROSEMONT HEIGHTS ADDITION to the City of Tulsa, Tulsa County, Oklahoma, according to the recorded Plat thereof,

and

Mortgage No. 2 - Lots Twenty-One (21) and Twenty-Two (22), Block Two (2), ROSEMONT HEIGHTS ADDITION to the City of Tulsa, Tulsa county, Oklahoma, according to the recorded Plat thereof,

and that Plaintiff's mortgage liens be and the same are hereby established and adjudged to be prior and superior to the right, title and interest of the Defendants herein, and each of them, and all persons claiming by, through or under them since the commencement of this action, for all of which let execution issue.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that the mortgage liens of Plaintiff in the amounts hereinabove found and adjudged, be foreclosed and that upon the failure of

said Defendant, Larry W. McGraw, to satisfy said judgment, a special execution and order of sale shall issue out of the Office of the District Court Clerk in this cause, directed to the United States Marshall to levy upon, advertise and sell, after due and legal appraisement, the real estate and premises above described, subject to unpaid taxes, if any, and pay the proceeds of said sale to the Clerk of this Court, as provided for by law, for application as follows:

First: To the payment of the costs herein accrued and accruing;

Second: To the payment of the judgment and liens of the Plaintiff in the amounts herein set forth; and

Third: The balance, if any, to be paid to the Clerk of this Court, to await the further order of the Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that from and after the sale of said real estate as herein directed, and the confirmation of such sale by the Court, the parties to this action shall be forever barred and foreclosed of and from any lien upon or adverse to the right and title of the purchaser at such sale; and the Plaintiff and Defendants hereto, and all persons claiming by, through or under them since the commencement of this action, are hereby perpetually enjoined and restrained from ever setting up or asserting any lien upon or right, title, interest, or equity of redemption in or to said real estate adverse to the right and title of the purchaser at such sale, if same be had and confirmed, and that upon proper

application by the purchaser, the said Court Clerk shall issue a writ of assistance to the United States Marshall, who shall, thereupon and forthwith place the said purchaser in full and complete possession and enjoyment of the premises.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Defendant, Larry W. McGraw's Counterclaims are hereby dismissed based upon the doctrine of D'oench Dume.

S/ THOMAS R. BREIL

UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM:

ROBINSON, LEWIS, ORBISON, SMITH & COYLE

By Kenneth M. Smith

Kenneth M. Smith
Scott E. Coulson
P O Box 1046
Tulsa, Oklahoma 74101
(918) 583-1232

Attorney for Plaintiff

131McGraw-JE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 25 1991

BRADEN BARTHOLIC

Plaintiff,

vs.

SNAPPER POWER EQUIPMENT,
a division of Fuqua Industries,
Inc., a Delaware corporation,

Defendant.

Jack C. Silver, Clerk
U.S. DISTRICT COURT

No. 89-C-327-B

JUDGMENT

In accordance with the jury verdict rendered on January 24, 1991, Judgment is hereby entered in favor of Defendant, Snapper Power Equipment, and against the Plaintiff, Braden Bartholic. Costs are assessed against Plaintiff if timely applied for under Local Rule 6. The parties are to pay their own respective attorneys fees.

Dated this 25th day of January, 1991.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

JAN 25 1991

JACK OLIVER, CLERK
U.S. DISTRICT COURT

ROSALIE G. CLARK, Individually,
and as the Surviving Spouse
and Next of Kin of
LOUIS O. CLARK, Deceased,

Plaintiff,

vs.

No. 89-C-516-B

FIBREBOARD CORPORATION, et al

Defendants.


NOTICE OF VOLUNTARY DISMISSAL
WITHOUT PREJUDICE

COMES NOW the Plaintiff and, pursuant to Rule 41(a)(1)(i), Fed. R. Civ. P., hereby voluntarily dismisses the above-captioned cause of action, without prejudice, as to all defendants, said defendants having neither answered nor moved for summary judgment in this action.

DATED this 25th day of January, 1991.

Respectfully submitted,

UNGERMAN & IOIA

By: 
Mark H. Iola OBA #4553
1323 East 71st Street
Tulsa, Oklahoma 74136
(918) 495-0550

ATTORNEYS FOR PLAINTIFF

entered

10
JAN 25 1991

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA**

JACK C. SILVER, CLERK
U.S. DISTRICT COURT

MARY SUE SMITHEY,

Plaintiff,

vs.

TRANSWESTERN MINING COMPANY,
SUNBELT MINING COMPANY, INC.,
and PUBLIC SERVICE COMPANY
OF NEW MEXICO,

Defendants.

No. 90-C-477-C ✓

ORDER

Before the Court is the objection filed by defendant Transwestern Mining Company (Transwestern) to the recommendation entered by Magistrate Jeffrey Wolfe that plaintiff's motion to remand be granted. For the reasons set forth below, the Court rejects the recommendation of the Magistrate and denies the motion to remand.

This action was commenced in the District Court for Rogers County, Oklahoma. Defendant Transwestern removed the case to this Court alleging diversity jurisdiction. Plaintiff is a resident of the State of Oklahoma. Plaintiff filed for remand on the single allegation that Transwestern's principal place of business is in Oklahoma, thereby depriving the Court of diversity jurisdiction.¹ The citizenship of the remaining two defendants is not at issue.

¹In order to give federal district courts subject matter jurisdiction under 28 U.S.C. §1332, the citizenship of all parties on one side of the case or controversy must be diverse to those on the other side.

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No other jurisdictional basis has been raised. Transwestern asserts that its principal place of business is in Albuquerque, New Mexico which would satisfy the diversity requirement.

The determination of a corporation's principal place of business is a question of fact in which the Court considers such factors as "the character of the corporation, its purpose, the kind of business in which it is engaged, and the situs of its operations." United Nuclear Corp. v. Moki Oil and Rare Metals Co., 364 F.2d 568, 570 (10th Cir. 1966). Where a corporation conducts its business in a number of states, with no one situs dominant, the principal place of business is "the state where a substantial part of its business is transacted and from which centralized general supervision of all its business is exercised." United Nuclear, 364 F.2d at 570.

The underlying facts in this case are in dispute. The Magistrate relied primarily on an affidavit of plaintiff's attorney R. Thomas Seymour in making his factual findings. In recommending remand the Magistrate applied a "locus of operations test" and determined that substantially all of Transwestern's operations are located in Oklahoma.

The Magistrate's findings are too narrow and fail to take into consideration relevant information contained in an affidavit of the president of Transwestern, Martin Clifton, which has not been discredited by plaintiff.²

²Specifically, the Magistrate stated on p.3 of his Report:

Applying the "locus of operations" test in this case, the undersigned finds as follows. All of Transwestern's physical operations are in Oklahoma. Most of

(continued...)

Plaintiff asserts that Transwestern's operations, for jurisdictional purposes, should be assessed solely as of the date the petition was filed in state court. Plaintiff contends that on that date, virtually all of Transwestern's operations were limited to reclamation work which needed to be conducted in Oklahoma. The Court disagrees.

It is a correct legal principle that federal diversity jurisdiction is determined by examining the citizenship of the parties at the time the action is commenced. However, a corporation's citizenship does not change merely because it is winding down its corporate operation or has ceased performing certain functions.

During the time relevant to the allegations contained within the complaint and continuing to date, the Court finds that Transwestern's principal place of business is in Albuquerque, New Mexico. Transwestern is a corporation formed under the laws of the State of Nevada. It is a subsidiary of Sunbelt Mining Company, Inc., which in turn is a subsidiary of Public Service Company of New Mexico. In 1984 all of Transwestern's common stock was acquired by Sunbelt. Since that time, Transwestern's executive and corporate offices have been maintained in Albuquerque, New Mexico. From the Albuquerque headquarters it has directed exploration and

²(...continued)

the employees are in Oklahoma. All of its physical assets and product inventory are in Oklahoma; and, significant mining reclamation work remains to be performed in this state. Accordingly, the United States Magistrate finds that Transwestern is a citizen of Oklahoma for purposes of determining diversity jurisdiction.

mining operations in various states including Nevada, Arizona, California, Colorado and Oklahoma.

In 1986, Transwestern purchased stock in Sunterra Gas Processing Company. Sunterra processes natural gas and markets natural gas liquids in interstate commerce. In 1987 Transwestern acquired 20% of the common stock in Royal Gold, a mining company in Denver, Colorado. From late 1986 until June 1989 Transwestern was in the computer leasing business. Transwestern has received revenues from its interests in coal mines, gold mines, natural gas processing facilities, computer leasing and stock transactions.

Transwestern's corporate office is located in Albuquerque, New Mexico, where all of its officers and directors reside. Although in a wind-down mode, approximately 25% of Mr. Clifton's work involves Transwestern's activities. Transwestern's general legal counsel resides in Albuquerque, and its primary bank account is located at First National Bank in Albuquerque. All payroll checks are issued from Albuquerque. All corporate books, records and income tax records are maintained in Albuquerque. Transwestern has filed franchise tax returns in Oklahoma since 1985, in Nevada since 1984, and in Arizona from 1984 until 1988. The franchise tax returns were prepared in Albuquerque.

Transwestern has filed state income tax returns in New Mexico and Oklahoma.³ The state income tax returns have been prepared in Albuquerque.

³State income tax returns were not filed in Nevada due to the fact that Nevada has no state income tax.

As a result of past coal mining operations in Oklahoma, Transwestern holds approximately twelve unexpired coal leases in this state. Transwestern intends to hold these leases until it is able to sell them or they expire. Transwestern has no intent to continuing mining coal in Oklahoma.

The only activity Transwestern is conducting in Oklahoma relates to reclamation. Transwestern is obligated to conduct reclamation of its Oklahoma coal mines pursuant to obligations and permits engaged in as early as 1985. These permits were acquired through its Albuquerque office. Transwestern's management meets with its Oklahoma based personnel at Transwestern's Albuquerque office to coordinate negotiations and discussion with reclamation contractors, consultants, engineers, legal counsel and regulatory agencies relating to reclamation activities in Oklahoma, as well as other states.

At the present time, Transwestern employs only one salaried employee and two hourly employees full time in Oklahoma.

On August 20, 1985 Transwestern became licensed to do business in the State of Oklahoma as a foreign corporation, and since that date Transwestern has continuously been registered with the Oklahoma Secretary of State as a foreign corporation.

Transwestern in its winding-down status has ¹⁾discontinued all coal mining operations in Oklahoma, ²⁾sold off or otherwise disposed of mining equipment and coal leases in Oklahoma, ³⁾disposed of stock in its subsidiaries which operated gold mines, ⁴⁾sold its stock in Sunterra and its interest in Royal Gold.

Transwestern's activities in Oklahoma are limited to reclamation site maintenance and other related activities. Transwestern is not performing major reclamation operations such as pit backfilling or topsoil replacement.

All records regarding plaintiff's royalty payments were created in Rogers County, Oklahoma. However, in 1989 these records were moved to Albuquerque when all Oklahoma based clerical personnel were terminated.

It is clear from the affidavit furnished by Martin Clifton that the executive headquarters of Transwestern is in Albuquerque. It is the hub where corporate policies are formulated and important corporate policies are finalized, and from which supervision and direction emanate, even though these directives may be carried out by personnel located in Oklahoma.

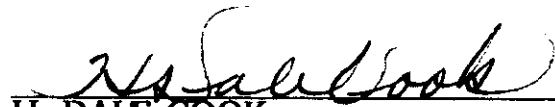
The affidavit supplied by Martin Clifton has not been discredited by any evidence furnished by plaintiff. The information set forth by plaintiff's attorney has been explained by placing it in perspective to Transwestern's current status.

It is clear to this Court that Transwestern's principal place of business has been since 1984 located in Albuquerque. New Mexico remains its principal place of business even though Transwestern's current focus is closing out its coal mining operation in Oklahoma. This fact standing alone does not shift Transwestern's principal place of business to the State of Oklahoma.

Under the rule of law established in United Nuclear Corp., supra, Albuquerque, New Mexico remains Transwestern's principal place of business.

The Magistrate's recommendation is rejected. Accordingly, it is the Order of the Court that the motion of plaintiff Mary Sue Smithey to remand is hereby DENIED.

IT IS SO ORDERED this 25th day of January, 1991.



H. DALE COOK
Chief Judge, U. S. District Court

FILED

JAN 25 1991

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

Jack C. Silver, Clerk
U.S. DISTRICT COURT

US WEST FINANCIAL SERVICES, INC.,)
a Colorado corporation,)

Plaintiff,)

v.)

No. 88-C-1075-B

MOORAD MANAGEMENT, INC., an)
Oklahoma corporation, et al.,)

Defendants,)

ORDER

The Court has for decision the Plaintiff's, US West Financial Services, Inc. (US West), Motion for Summary Judgment against the remaining defendants for alleged breaches of a lease agreement and its associated guarantees and unexecuted guarantees. Also before the court is Defendant Paul F. Park's (Park) Cross Motion for Summary Judgment asserting that US West is barred from any recovery under Park's executed guaranty due to US West's failure to provide notice of its disposition of the leased equipment. For the reasons stated hereafter, US West's Motion for Summary Judgment is OVERRULED and Park's Cross Motion for Summary Judgment is SUSTAINED as to Park's claim that proper notice was not given to him, therefore, barring recovery against him.

The following facts are undisputed: A limited partnership was created for the purpose of operating a computerized medical diagnostic business known as Tulsa Diagnostic and Imaging Center (TDIC). The general partners and principal sellers of the limited partnership interests were the defendants Moorad Management, Inc.

(MMI) and McCall Management, Inc. (McCall), Oklahoma corporations.

The limited partnership interests were offered for sale by way of a Private Placement Memorandum which included a limited partnership agreement and supporting documents. Over a period of approximately fourteen months, from October 1985 until December 1986, the defendants entered into an agreement to purchase limited partnership interests in TDIC by subscription agreements that were a part of the Private Placement Memorandum. The defendants paid cash for their limited partnership interests.

On or about October 6, 1986, TDIC entered into an equipment lease (lease) with Term Industries, Inc. (Term). On October 10, 1986, the lease was assigned by Term to US West Capital Corporation. US West Capital Corporation was thereafter merged into US West Financial Services. Certain defendants (guaranty defendants), pursuant to the Limited Partnership Agreement, provided written guarantees to third parties who leased equipment to TDIC. Other defendants (non-guaranty defendants) did not execute guarantees, although US West argues that the Limited Partnership Agreement requires all partners to guaranty the equipment leases.

The defendants remaining in this action are general partner MMI, guaranty defendant Park, and non-guaranty defendants Singh & Singh, Merl Fermo, and Joe Fermo.

SUMMARY JUDGMENT STANDARD

Summary judgment is proper under Fed.R.Civ.P. 56(c) "if the pleadings, depositions, answers to interrogatories, and admissions

on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Celotex Corp. v. Catrett, 477 U.S. 317, 106 S.Ct. 2548, 91 L.Ed.2d 265, 274 (1986). If factual disputes are reflected by the record concerning relevant issues, the motion for summary judgment should be denied. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 106 S.Ct. 2505, 91 L.Ed.2d 202 (1986).

US West states that summary judgment is appropriate because there is no genuine issue of material fact as to the defendants' breach of the lease and the damages sustained by US West as a result of that breach. Also raised by the plaintiff's motion for summary judgment is the liability of and damages sustained by the US West due to its reliance on the non-guaranty defendants' promise to execute guarantees.

As to the issue of breach of the lease, the lease contains terms and provisions that specifically set forth what constitutes a default under the lease. Paragraph 19(a) of the lease states that

the occurrence of any of the following events shall constitute an Event of Default hereunder. . . .
(vi) Lessee. . . cease[s] doing business as a going concern, or become[s] insolvent or bankrupt or [is] unable to pay its debts as they mature, or consent[s] to the appointment of a trustee or receiver. . . .

US West argues that TDIC is in default because TDIC filed for Chapter 7 bankruptcy on August 22, 1989. (See Exhibit F of Appendix to Brief of US West In Support of Motion for Summary

Judgment Against All Defendants).

While this clearly constitutes a default under the terms of the lease, the Court finds that summary judgment is inappropriate, as there remain disputed facts that are material to the defense of constructive fraud¹ as alleged by defendant MMI. The factual disputes in the record concern the nature of the relationship between Term and US West and US West's involvement in any third party lease arrangements. As these matters are material to the issue of what, if any, duty arises from the relationship between US West and the defendants, the breach of which could vitiate the lease agreement and guarantees, the Court overrules US West's motion for summary judgment.

Defendant Park's Cross Motion For Summary Judgment comes before the Court pursuant to its renewal in the Brief of Defendant, Paul F. Park, M.D., In Opposition To The Motion For Summary Judgment Against All Defendants Of US West Financial Services, Inc.² There are no disputed facts and the following issues are to

¹ Okla. Stat. tit. 15, §59 defines constructive fraud as follows:

1. In any breach of duty which, without an actually fraudulent intent, gains an advantage to the person in fault, or anyone claiming under him by misleading another to his prejudice, or to the prejudice of any one claiming under him; or

2. In any such act or omission as the law specially declares to be fraudulent, without respect to actual fraud.

² Park raised the matter of the Court having the power to enter summary judgment in favor of the nonmoving party on a motion for summary judgment if the undisputed facts of the case and the

be determined by the Court as a matter of law:

1. Is New York law the applicable law governing the lease and guarantees?
2. Is the lease a secured transaction, and therefore, governed by Article 9 of the Uniform Commercial Code (UCC)?
3. If the lease is subject to Article 9 of the UCC, was proper notice given to Park regarding the disposition of the collateral, as required by §9-504(3) of the UCC?

It is clear from the agreed terms that the parties chose the law of New York to govern their rights and duties under the lease and guaranty. Paragraph 25 of the lease specifically states that the lease "shall be interpreted, and the rights and liabilities of the parties hereto determined in accordance with the laws of the State of New York."³ Paragraph 10 of Defendant Park's guaranty also states that the law of New York governs this transaction.⁴

applicable law indicate that summary judgment in favor of the nonmoving party is proper. Pueblo of Santa Ana v. Mountain States Telephone and Telegraph Co., 734 F.2d 1402, 1408 (10th Cir. 1984) rev'd on other grounds, 472 U.S. 237 (1985). Although the Court has the authority to enter summary judgment in favor of the nonmoving party, the Court views Park's motion as a renewal of his previous motion for summary judgment against Plaintiff.

³ Exhibit A of Appendix to Brief of Defendant Park in Opposition to the Motion for Summary Judgment against all Defendants of US West [hereinafter Appendix].

⁴ "This Guaranty Agreement shall in all respects be governed by and construed in accordance with the internal laws of the State of New York, without reference to principles of conflict of laws."

Because the New York Uniform Commercial Code §1-105 provides that the parties may agree on the law that will govern their rights and duties, and the parties have expressly chosen the law of New York, the Court will evaluate the rights and liabilities of the parties in light of the relevant statutory and common law of New York.

Under the New York UCC, a lease may automatically qualify as a secured transaction or the Court may determine that the parties intended the lease as a secured transaction. The lease automatically qualifies as a secured transaction under §1-201(37)(b) if the lease contains a purchase option clause. The subject lease, however, does not automatically qualify as a secured transaction because it does not contain a purchase option clause which would allow TDIC, as lessee, to purchase the collateral for no or nominal consideration at the end of the lease term. In the absence of "automatic qualification," the Court must look to the intent of the parties, which is determined by the facts of each case. Van Alphen v. Robinson, 71 A.D.2d 1039, 420 N.Y.S.2d 44 (1977); Davis Brothers v. Misco Leasing, Inc., 508 S.W.2d 908 (1974). Guardsman Lease Plan Inc. v. Gibraltar Transmission Corp., 494 N.Y.S.2d 59, 63 (Supp. 1985).

The factors to be considered in determining whether the parties intended the lease to be a secured transaction are (1) whether the lessee is required to maintain insurance coverage upon the leased equipment; (2) whether the lessor is in the business of leasing the equipment; (3) whether the total of rental payments

Appendix Exhibit B.

exceeds the purchase price; (4) whether the lease provides for the sale of the equipment upon default, and for liability of the lessee if a deficiency results; (5) whether the lessor requires a guaranty or indemnity from a third party; (6) whether the lessee is required to pay license, registration, taxes, and other like charges; (7) whether the lessee has indemnified the lessor from claims, suits or damages; and (8) whether a down payment was made. Guardsman Lease, 494 N.Y.S.2d at 63-64, and Credit Car Leasing Corp. v. DeCresenzo, 525 N.Y.S.2d 492 (1988).

The lease at issue contains terms and provisions that meet seven of the eight factors identified above. (1) At paragraph 16 of the lease, TDIC, the lessee, is to insure the collateral during the term of the lease at TDIC's expense. (Appendix Exhibit A).

(2) Paragraph 4 of the lease contains an express statement that the lessor, Term/US West, is not a manufacturer of the collateral. (Appendix Exhibit A). (3) Paragraph 2 of the lease sets out that the acquisition cost of the equipment was approximately \$5,800,000.00; yet, the sum owing from the rentals was \$9,422,134.20. (Paragraph 6 of US West's First Amended Complaint).

(4) At Paragraph 19 of the lease, Term/US West's options for recovering any deficiency in the case of a default include an election to sell any or all such equipment. (Appendix Exhibit A).

(5) Paragraph 7.1 of the Partnership Agreement requires each general and limited partner to execute guarantees covering the equipment leases. (Appendix Exhibit A). (6) Paragraphs 10 and 12 of the lease require TDIC to pay all taxes, fees, licenses, permits,

certificates, and other like requirements. (Appendix Exhibit A). (7) Paragraph 11 sets out TDIC's agreement to indemnify the lessor, Term/US West. (Appendix Exhibit A). (8) It is not clear from the lease, however, whether a down payment was made. A review of these factors leads the Court to conclude that the parties intended the lease to be a secured transaction.

Having determined the lease to be a secured transaction and governed by the UCC, we must examine whether Park is entitled to notification of the disposition of collateral under § 9-504(3). New York case law has held that a guarantor is included within the definition of debtor for the purposes of Article 9 and is entitled to notice under Article 9-504(3). Marine Midland Bank v. Kristin International, Ltd., 141 A.D.2d 259, 534 N.Y.S.2d 612 (1988); Chase Manhattan Bank, N.A. v. Natarelli, 401 N.Y.S.2d 404 (Supp. 1977). Section 9-504(3) provides in part:

Unless collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, reasonable notification of the time and the place of any public sale or reasonable notification of the time after which any private or other intended disposition is to be made shall be sent by the secured party to the debtor, if he has not signed after default a statement renouncing or modifying his right to notification of the sale.

Because the collateral does not fall within the cited exceptions, the Court finds that Park is entitled to notice of US West's disposition of the collateral.

There is no evidence to show that Park waived or modified his right to notification after default. US West argued that notice

was given to Park by letter, (Exhibit N of Plaintiff's Supplement to Second Supplemental Appendix to Brief of US West Financial Services, Inc. In Support Of Motion For Summary Judgment Against All Defendants). This letter, however, is clearly a settlement letter and does not meet the notice requirements of § 9-504(3). The letter does not mention the collateral, let alone discuss the disposition of any collateral. The letter sets out a long term settlement proposal and requests Park to become a referring member in EMG, Inc. The Court, therefore, concludes that US West failed to provide Park with notice as required by §9-504(3).

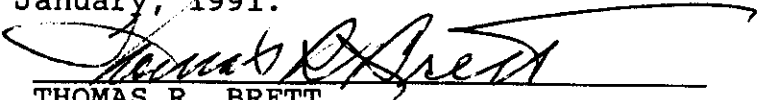
There is a split of authority in New York as to whether failure to meet the notice requirement of §9-504 bars the secured creditor's right to recover. The majority of the cases that the plaintiff cites, however, concerns deficient notice rather than failure to give notice. These cases hold that the creditor is not barred absolutely when notice is given the debtor, but such notice is deficient. The cases that Park cites in support, however, hold that failure to give notice "acts as an absolute bar to plaintiff recovering a deficiency judgment against said corporate defendant," Long Island Trust Co. v. Porta Aluminum, Inc., 404 N.Y.S.2d 682 (1978). Because the Court finds that no notice rather than deficient notice was given Park as to the disposition of collateral, the Court adopts the reasoning of Long Island Trust. Because Park as a guarantor is entitled to protection concerning collateral disposition under §9-504(3), and the requirements of notice were not met, US West's claim for recovery against Park is

barred absolutely.

For the reasons previously stated, said motion for summary judgment of the guaranty defendant Park are SUSTAINED as to Defendant Park's claim that the transaction is a secured transaction governed by Article 9 of the New York Commercial Code and that proper notice was not given to Park, thereby barring US West's claims against Park. US West's motion for summary judgment, however, is OVERRULED, and the Court sets the following trial schedule for further proceedings:

March 1, 1991	EXCHANGE THE NAMES AND ADDRESSES OF ALL WITNESSES, INCLUDING EXPERTS, IN WRITING, ALONG WITH A BRIEF STATEMENT REGARDING EACH WITNESS' EXPECTED TESTIMONY (UNNECESSARY IF WITNESS' DEPOSITION TAKEN);
March 15, 1991	COMPLETE ALL DISCOVERY;
April 1, 1991	FILE AGREED PRE-TRIAL ORDER & EXCHANGE ALL PRE-NUMBERED EXHIBITS PURSUANT TO LOCAL RULE 16;
April 8, 1991	FILE SUGGESTED VOIR DIRE, JURY INSTRUCTIONS, TRIAL BRIEFS, AND MOTIONS IN LIMINE;
April 15, 1991	JURY TRIAL AT 9:30 A.M.

DATED this 25th day of January, 1991.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ROBERT E. HAILEY; DEBRA L.
HAILEY; COUNTY TREASURER,
Washington County, Oklahoma;
BOARD OF COUNTY COMMISSIONERS,
Washington County, Oklahoma;
and ACCENT MOVING & STORAGE,
INC.,

Defendants.

FILED

JAN 25 1991

Jack C. Silver, Clerk
U.S. DISTRICT COURT

CIVIL ACTION NO. 90-C-655-E

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 23rd day
of January, 1991. The Plaintiff appears by Tony M.
Graham, United States Attorney for the Northern District of
Oklahoma, through Phil Pinnell, Assistant United States Attorney;
and the Defendants, Robert E. Hailey, Debra L. Hailey, Accent
Moving & Storage, Inc., and County Treasurer and Board of County
Commissioners, Washington County, Oklahoma, appear not, but make
default.

The Court, being fully advised and having examined the
court file, finds that the Defendant, Robert E. Hailey was served
with Summons and Amended Complaint on November 19, 1990; that the
Defendant, Debra L. Hailey, was served with Summons and Amended
Complaint on November 19, 1990; that the Defendant, Accent Moving
& Storage, Inc., was served with Summons and Amended Complaint on
August 27, 1990; that the Defendant, County Treasurer, Washington
County, Oklahoma, acknowledged receipt of Summons and Complaint

on August 3, 1990; and that the Defendant, Board of County Commissioners, Washington County, Oklahoma, acknowledged receipt of Summons and Complaint on August 3, 1990.

It appears that the Defendants, Robert E. Hailey; Debra L. Hailey; Accent Moving & Storage, Inc.; County Treasurer, Washington County, Oklahoma; and Board of County Commissioners, Washington County, Oklahoma, have failed to answer and their default has therefore been entered by the Clerk of this Court.

The Court further finds that this is a suit based upon a certain mortgage note and for foreclosure of a mortgage securing said mortgage note upon the following described real property located in Washington County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Twenty-Seven (27), Block Ten (10), OAK
PARK VILLAGE, SECTION I, Bartlesville,
Washington County, Oklahoma.

The Court further finds that on May 24, 1982, the Defendants, Robert E. Hailey and Debra L. Hailey, executed and delivered to United Bankers Mortgage Corporation, their mortgage note in the amount of \$37,500.00, payable in monthly installments, with interest thereon at the rate of 15.50 percent (15.50%) per annum.

The Court further finds that as security for the payment of the above-described note, the Defendants, Robert E. Hailey and Debra L. Hailey, executed and delivered to United Bankers Mortgage Corporation, a mortgage dated May 24, 1982, covering the above-described property. Said mortgage was

recorded on May 25, 1982, in Book 778, Page 972, in the records of Washington County, Oklahoma.

The Court further finds that United Bankers Mortgage Corporation assigned the real estate mortgage to Firstbank Mortgage Company on August 31, 1984. Said mortgage was recorded on September 14, 1984 in Book 823, Page 416, in the records of Washington County, Oklahoma.

The Court further finds that the Firstbank Mortgage Company assigned the mortgage to the Administrator of Veterans Affairs, now known as the Secretary of Veterans Affairs. Said mortgage was recorded on June 5, 1987 in Book 844, Page 482, in the records of Washington County, Oklahoma.

The Court further finds that a corrected assignment, dated March 17, 1987, was recorded on June 5, 1987 in Book 844, Page 936 in the records of Washington County, Oklahoma.

The Court further finds that another corrected assignment, dated April 30, 1990, was recorded on May 9, 1990 in Book 857, Page 1559, in the records of Washington County, Oklahoma.

The Court further finds that the Defendants, Robert E. Hailey and Debra L. Hailey, entered into a Modification and Reamortization Agreement with the Administrator of Veterans Affairs on June 22, 1987, which lowered their interest rate to ten percent (10%).

The Court further finds that the Defendants, Robert E. Hailey and Debra L. Hailey, made default under the terms of the

aforesaid note and mortgage by reason of their failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendants, Robert E. Hailey and Debra L. Hailey, are indebted to the Plaintiff in the principal sum of \$40,250.92, plus interest at the rate of 10 percent per annum from September 1, 1989 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action in the amount of \$66.22 (\$20.00 docket fees, \$38.22 fees for service of Summons and Complaint, \$8.00 fee for recording Notice of Lis Pendens).

The Court further finds that the Defendants, County Treasurer and Board of County Commissioners, Washington County, Oklahoma, claim no right, title or interest in the subject real property.

The Court further finds that the Defendant, Accent Moving & Storage, Inc., claims no right, title or interest in the subject real property.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendants, Robert E. Hailey and Debra L. Hailey, in the principal sum of \$40,250.92, plus interest at the rate of 10 percent per annum from September 1, 1989 until judgment, plus interest thereafter at the current legal rate of 6 1/2 percent per annum until paid, plus the costs of this action in the amount of \$66.22 (\$20.00 docket fees, \$38.22 fees for service of Summons and Complaint, \$8.00 fee for recording Notice of Lis Pendens), plus any

additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, Accent Moving & Storage, Inc., and County Treasurer and Board of County Commissioners, Washington County, Oklahoma, have no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendants, Robert E. Hailey and Debra L. Hailey, to satisfy the money judgment of the Plaintiff herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisement the real property involved herein and apply the proceeds of the sale as follows:

First:

In payment of the costs of this action accrued and accruing incurred by the Plaintiff, including the costs of sale of said real property;

Second:

In payment of the judgment rendered herein in favor of the Plaintiff;

The surplus from said sale, if any, shall be deposited with the Clerk of the Court to await further Order of the Court.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described real property, under and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the Complaint, be and they are forever barred and foreclosed of any right, title, interest or claim in or to the subject real property or any part thereof.

ST. JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

APPROVED:

TONY M. GRAHAM
United States Attorney



PHIL PINNELL, OBA #7169
Assistant United States Attorney
3600 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463

Judgment of Foreclosure
Civil Action No. 90-C-655-E

PP/esr

F I L E D

Jack C. Silver, Clerk
U.S. DISTRICT COURT

Defendant.

Case No. 88-C-450-B

DATED this 24 day of January, 1991.

UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

IN RE: STOCKTON OIL/GAS CO., INC., et al,)
)
 Plaintiffs,)
)
 v.)
)
 J. SCOTT McWILLIAMS,)
)
 Defendant.)

Bky. Case No. 85-01974-W
Bky. Case No. 85-02114-W

(Administratively Consolidated
under Case No. 85-01974)
Chapter 11

90-C-9571C FILED
JAN 24 1991 RW

ORDER

Now before the court is the Motion for Leave to Appeal (Docket #3)¹ of Stockton Oil/Gas Co., Inc. and The Remington Company, by W.T. Sanders, Sr., President and Managing Partner, from orders of the United States Bankruptcy Court for the Northern District of Oklahoma rendered since January 4, 1986 in this case.

Appellants allege that the corporations are the personal property of W.T. and Odessa R. Sanders and as such, the segregation placed on them by the Bankruptcy Court as "corporate" entities does not apply. They also allege that improper payments of interim trustee fees and legal fees have been ordered by the Bankruptcy Court, and that the court-appointed trustees have mishandled the funds in the estate and receivers have practiced fraud against the estate.

J. Scott McWilliams, Successor Trustee, asks the court to deny appellants leave to appeal, alleging that the requirements for filing an appeal set forth in Bankruptcy Rule 8003(a) have not been met, that no question of law has been presented to the court to justify hearing the appeal, and that W.T. Sanders has no right to appear for Stockton

¹ "Docket numbers" refer to numerical designations assigned sequentially to each pleading, motion, order, or other filing and are included for purposes of record keeping only. "Docket numbers" have no independent legal significance and are to be used in conjunction with the docket sheet prepared and maintained by the United States Court Clerk, Northern District of Oklahoma.

Oil/Gas Co., Inc. or the Remington Company because he is not an attorney.

The district court has jurisdiction to hear appeals from final decisions of the bankruptcy court under 28 U.S.C. § 158(a).² Under that section the district court has jurisdiction to hear appeals from interlocutory orders and decrees with leave of the court.

Under Bankruptcy Rules 8001(a)(b) and 8002(a), an appeal to the district court of a final or interlocutory order of the bankruptcy court must be filed within ten days of entry of the final judgment or order of the bankruptcy court. Timely filing of a notice of appeal is "mandatory and jurisdictional." See In re: 6 and 40 Investment Group, Inc., 752 F.2d 515, 515 (10th Cir. 1985).

W.T. Sanders filed this appeal of orders since January 4, 1986 on November 8, 1990. Clearly such an appeal is not timely. The court also concludes that the corporate debtor, Stockton Oil/Gas Co., Inc., may appear in a court of record only by attorney. DeVilliers v. Atlas Corp., 360 F.2d 292 (10th Cir. 1966). Its representation in the Motion for Leave to Appeal by W.T. Sanders, who is not an attorney, is thus improper. The Remington Company, as a separate entity for bankruptcy purposes, which was being jointly administered with the corporate debtor, should be likewise represented by an attorney.

The Motion for Leave to Appeal should be and is denied.

Dated this 24th day of January, 1991.


H. DALE COOK
UNITED STATES DISTRICT JUDGE

² 28 U.S.C. § 158(a) reads as follows:

The district courts of the United States shall have jurisdiction to hear appeals from final judgments, orders, and decrees, and, with leave of the court, from interlocutory orders and decrees, of bankruptcy judges entered in cases and proceedings referred to the bankruptcy judges under section 157 of this title [28 USCS § 157]. An appeal under this subsection shall be taken only to the district court for the judicial district in which the bankruptcy judge is serving.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

GENERAL ELECTRIC CAPITAL
CORPORATION, a New York
corporation,

Plaintiff,

vs.

VOGUE R.V. SALES OF CALIFORNIA,
INC., an Oklahoma corporation;
ITT COMMERCIAL FINANCE CORPORA-
TION, a Nevada corporation; and
TRANSAMERICA COMMERCIAL FINANCE
CORPORATION, a Delaware
corporation,

Defendants.

JAN 24 1991

JACK C. SILVER, CLERK
U.S. DISTRICT COURT

Case No. 90-C-962-B

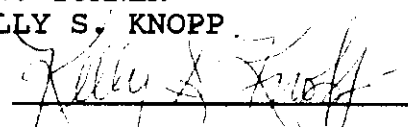
DISMISSAL WITHOUT PREJUDICE

Plaintiff GENERAL ELECTRIC CAPITAL CORPORATION ("GECC")
pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure
dismisses without prejudice its claims against ITT Commercial
Finance Corporation in the above-captioned matter. GECC will
proceed with this action against Defendants Vogue R.V. Sales of
California, Inc. and Transamerica Commercial Finance Corporation.

Respectfully submitted,

ANDREW R. TURNER
G.W. TURNER
KELLY S. KNOPP

By


CONNER & WINTERS
2400 First National Tower
Tulsa, Oklahoma 74103
(918) 586-5711

Attorneys for
GENERAL ELECTRIC CAPITAL
CORPORATION

OF COUNSEL:

Conner & Winters
2400 First National Tower
Tulsa, Oklahoma 74103
(918) 586-5711

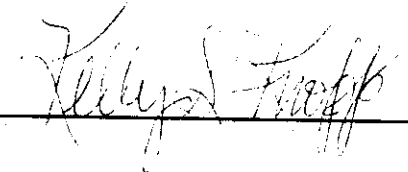
CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of January, 1991, a copy of the above and foregoing instrument was mailed with proper postage thereon to:

T.P. Howell
Edwards, Sonders & Propester
2900 First Oklahoma Tower
210 West Park Avenue
Oklahoma City, Oklahoma 73102-5605

Jonathan Alden
Hall, Estill, Hardwick, Gable
Golden & Nelson
4100 Bank of Oklahoma Tower
Tulsa, Oklahoma 74172-0154

ITT Commercial Finance Corporation
c/o The Corporation Company
735 First National Building
Oklahoma City, Oklahoma 73102



IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

AMERICAN CASUALTY COMPANY OF
READING, PENNSYLVANIA, a
Pennsylvania corporation,

Plaintiff,

vs.

ENVIROSOURCE, INC., a
Delaware corporation, and
RYDER/P-I-E NATIONWIDE,
a Florida corporation,

Defendant.

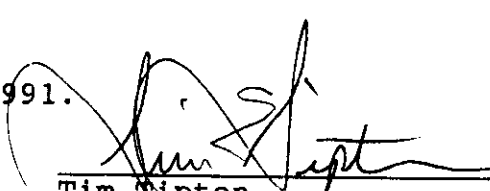
No. 90-C-759-E

JAN 24 1991
JACK C. SILVER, CLERK
U.S. DISTRICT COURT

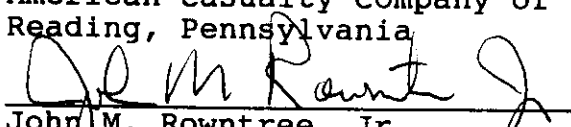
STIPULATION OF DISMISSAL

Pursuant to Federal Rule of Civil Procedure 41(A)(1), the Plaintiff, American Casualty Company of Reading, Pennsylvania, and the Defendant, Envirosource, Inc., being all of the parties who have appeared in this action, hereby jointly stipulate to the dismissal of this action with prejudice with each party to bear its own costs.

Dated January 24, 1991.



Tim Tipton
McGivern, Scott, Gilliard,
McGivern & Robinson
1515 South Boulder
P.O. Box 2619
Tulsa, OK 74101-2619
Attorneys for Plaintiff,
American Casualty Company of
Reading, Pennsylvania



John M. Rowntree, Jr.
DERRYBERRY, QUIGLEY, PARRISH,
SOLOMON & BLANKENSHIP
4800 N. Lincoln Blvd.
Oklahoma City, OK 73105
(405) 528-6569
Attorneys for Defendant
Envirosource, Inc.

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 24 1991

MRS. JEWEL M. GRAHAM, KEN E.
GRAHAM and DARYL GRAHAM, surviving
next of kin of EUGENE T. GRAHAM,
Deceased,

Plaintiffs,

vs.


KIDDER, PEABODY & CO. INCORPORATED
and MARK R. SERRUTO,

Defendants.

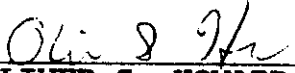
Case No. 90-C-813-E

STIPULATION ^{OF} FOR DISMISSAL WITHOUT PREJUDICE

Pursuant to Rule 41(a)(1)(ii), Fed. R. Civ. P., the parties hereto, through their attorneys of record, herewith stipulate that the above styled and numbered cause may be dismissed without prejudice.


GEORGE W. DAHNKE, OBA #2131
Hastie and Kirschner
3000 First Oklahoma Tower
210 West Park Avenue
Oklahoma City, Oklahoma 73102
(405) 239-6404

ATTORNEYS FOR PLAINTIFFS


OLIVER S. HOWARD
Gable & Gotwals, Inc.
2000 Fourth National Bank
15 West Sixth Street
Tulsa, Oklahoma 74119-5447

ATTORNEY FOR DEFENDANTS

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED
JAN 24 1991
1991

UNITED STATES OF AMERICA

Plaintiff

vs.

JOHN A. SCHAFFER

Defendant.

CIVIL ACTION NO. 90-C-473-C

AGREED JUDGMENT

This matter comes on for consideration this 23rd
day of January, 1991, ~~December, 1990~~, the Plaintiff appearing by Tony M. Graham,
United States Attorney for the Northern District of Oklahoma,
through Kathleen Bliss Adams, Assistant United States Attorney,
and the Defendant, John Schaffer, appearing pro se.

The Court, being fully advised and having examined the
court file, finds that the Defendant, John Schaffer, acknowledged
receipt of Summons and Complaint on June 1, 1990. The Defendant
has not filed an Answer but in lieu thereof has agreed that he is
indebted to the Plaintiff in the amount alleged in the Complaint
and that judgment may accordingly be entered against him in the
principal amount of \$1,628.74, plus accrued interest in the
amount of \$1,221.89 as of May 7, 1990, plus interest thereafter
at the rate of 7%, until judgment, plus interest thereafter at
the legal rate until paid, plus the costs of this action.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the
Plaintiff have and recover judgment against the defendant in the
principal amount of \$1,628.74, plus accrued interest in the
amount of \$1,221.89 as of May 7, 1990, plus interest thereafter

SHAFER

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 23 1991

JACK and NELLIE FIELDS,

Plaintiffs,

v.

UNITED STATES OF AMERICA,

Defendant.

Jack C. Silver, Clerk
U.S. DISTRICT COURT

Civil No. 90C-320B

ORDER

Upon review of the file and the stipulation of counsel,

IT IS HEREBY ORDERED that the complaint in the above-entitled case is dismissed with prejudice, the parties to bear their respective costs, including any possible attorneys' fees or other expenses of this litigation.

Dated this 23rd day of January, 1991.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

CJE/kgH

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

AMANDA R. BURGAN, JESSICA L.
BURGAN, and MELISSA C.
BURGAN, Minors, by their
Guardian, Connie K. Burgan,

Plaintiffs,

vs.

CLIFFORD RAY JOHNSON, and
FARMERS INSURANCE COMPANY,
INC., a Kansas Corporation,

Defendants.

No. 90-C-858E

1-23-91

JOURNAL ENTRY OF JUDGMENT

Now on the 23rd day of January, 1991, the
above-captioned case comes on for hearing before me, the
undersigned Judge of the United States District Court for the
Northern District of Oklahoma. The plaintiffs appear personally,
and through their attorney, Jack I. Gaither; the defendant,
Clifford Ray Johnson, appears by and through his attorney of
record, Joseph H. Paulk/Cary J. Edwards; and the defendant,
Farmers Insurance Company, appeared by and through its attorney
of record, John F. Martin, for Court approval of a settlement
involving a minor. The Court was then advised that a settlement
agreement by such parties had been reached as follows: That the
defendant, Clifford Ray Johnson, agrees to pay the above-
described minor plaintiffs with regard to their cause of action
the sum of Eighteen Thousand Two Hundred Ninety-Four Dollars and

75/100 (\$18,294.75). Additionally, the defendant, Farmers Insurance Company, agrees to pay the above-described minor plaintiffs the amount of Forty-Five Thousand Dollars and No/100 (\$45,000.00), to be paid to Connie K. Burgan, guardian of the Estate of Amanda R. Burgan, Jessica L. Burgan, and Melissa C. Burgan, minors, and to be deposited under the supervision of the Probate Court of the Circuit Court of the 18th Judicial District, DuPage County, Illinois, after deducting a 25 percent attorney fee of Fifteen Thousand Eight Hundred Twenty-Three Dollars and 69/100 (\$15,823.69).

It was further stated to the Court by all parties that the settlement agreement is fair and reasonable and that all parties wish to have the Court approve this settlement. The Court, being fully advised in the premises finds that the settlement agreement is fair, reasonable, and in the best interest of the minor children, and approves the same as it is set forth below. The issue of liability has not been determined by the Court in this hearing.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED by this Court that the plaintiffs on their cause of action contained in the Petition herein have and recover from the defendant, Clifford Ray Johnson, the amount of Eighteen Thousand Two Hundred Ninety-Four Dollars and 75/100 (\$18,294.75), and from the defendant, Farmers Insurance Company, the amount of Forty-Five Thousand Dollars and No/100 (\$45,000.00) for a total of Sixty-Three Thousand Two Hundred Ninety-Four Dollars and 75/100 (\$63,294.75),

and that the remaining balance of Forty-Seven Thousand Four Hundred Seventy-One Dollars and 06/100 (47,471.06), after deducting the attorney fee of Jack I. Gaither, be paid to Connie K. Burgan, guardian of the Estate of Amanda R. Burgan, Jessica L. Burgan, and Melissa C. Burgan, minors, for the benefit of these minor children and be deposited under the supervision of the Circuit Court of the 18th Judicial District, DuPage County, Illinois, case number 90P-888, for the benefit of said minor children.

WILLIAM L. BURTON

JUDGE OF THE UNITED STATES
DISTRICT COURT

APPROVED AS TO FORM AND CONTENT:

JACK I. GAITHER,
Attorney for Plaintiff

Cary J. Edwards

JOSEPH H. PAULK/CARY J. EDWARDS,
Attorney for Defendant,
Clifford Ray Johnson

John F. Martin

JOHN F. MARTIN,
Attorney for Defendant,
Farmers Insurance Company

IN THE UNITED STATES DISTRICT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

THOMAS LEE REAMS,

PLAINTIFF

v.

TERRY J. CLAYBROOK, CLEARWATER
TRUCKING COMPANY, a Kansas
corporation, and GULF INSURANCE
COMPANY, a Texas corporation,

DEFENDANTS

CASE NO. 88-C-267 E

STIPULATION OF DISMISSAL

COME NOW the parties, through their respective counsel,
pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure, and
stipulate to the dismissal of the above-styled cause of action without
prejudice to the filing of a future action against TERRY J.
CLAYBROOK, only, with each party to the dismissal to bear its own
costs, and with the Plaintiff(s) reserving all rights to proceed
against all remaining parties or others who may be liable.



JOHN M. MERRITT
P.O. BOX 60708
OKLAHOMA CITY, OKLAHOMA 73146
ATTORNEY FOR PLAINTIFF



JOHN H. LIEBER
2727 E. 21st STREET
SUITE 200
TULSA, OKLAHOMA 731114
ATTORNEY FOR DEFENDANTS

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

COMMUNITY FEDERAL SAVINGS AND
LOAN ASSOCIATION, a federally
chartered savings and loan
association,

Plaintiff,

vs.

RICKY LOREN WASHINGTON, et al.,

Defendants,

and

UNITED STATES OF AMERICA,

Third Party Plaintiff,

vs.

CREANN MOSLEY, et al.,

Third Party Defendants.

FILED

JAN 23 1991

Jack C. Silver, Clerk
U.S. DISTRICT COURT

Civil Action No. 89-C-0019-B
Case No. CJ-88-06724
(Tulsa County District Court)

JOURNAL ENTRY OF DEFICIENCY JUDGMENT

NOW on the 17th day of January, 1991, the above styled cause came on for hearing before the undersigned Judge upon the Plaintiff's Motion for Deficiency Judgment and Request for Order Directing Manner of Notice filed herein on December 6, 1990. The Plaintiff appears herein by its attorneys, Jones, Givens, Gotcher & Bogan, a professional corporation, by Michael B. Tolson, and the Defendants, Rickey L. Washington and Forrest Jean Washington, appear not. The Court, having reviewed the pleadings and other matters on file herein, and being fully advised in the premises, **FINDS:**

That the property which was the subject matter of this foreclosure action was sold on September 10, 1990, for the sum of \$30,107.00 to the United States of America on behalf of the Veterans Administration, and that the judgment entered in favor of the Plaintiff against the Defendants, Rickey L. Washington and Forrest Jean Washington, for the principal sum of \$13,902.17, together with interest from and including April 30, 1988 through October 27, 1988 in the amount of \$680.03, together with interest from and including October 28, 1988 through December 6, 1990 in the amount of \$2,956.80, together with interest from and including December 7, 1990 through January 16, 1991 in the amount of \$153.60, together with interest from and including January 17, 1991, at the rate of \$3.84 per diem until paid, together with late charges in the amount of \$104.00, together with life insurance premiums in the amount of \$17.48, and together with attorney's fees in the sum of \$2,000.00, all as per judgment of foreclosure entered herein on November 29, 1989 (the "Judgment"), remains wholly unsatisfied. The total sum remaining due and owing to the Plaintiff from the Defendants, Rickey L. Washington and Forrest Jean Washington, in this matter is the sum of \$19,814.08, together with interest thereon from and including January 17, 1991, at the rate of \$3.84 per diem, until paid.

The Court further finds that notice of this hearing was proper, which was served by mail pursuant to this Court's Order filed December 31, 1990.

The Court further finds that the Defendant, Forrest Jean Washington, filed a Petition for Bankruptcy on December 28, 1990, and that the Plaintiff is thereby stayed from pursuing a deficiency judgment against the Defendant Forrest Jean Washington.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that Plaintiff's Judgment set forth hereinabove remains wholly unsatisfied, leaving an unpaid Judgment balance in the amount of \$19,814.08, together with interest thereon from and including January 17, 1991, at the rate of \$3.84 per diem, until paid.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff be granted a deficiency judgment against the Defendant, Rickey L. Washington, for the principal sum of \$19,814.08, together with interest thereon from and including January 17, 1991, at the rate of \$3.84 per diem, until paid.

ENTERED this 23rd day of January, 1991.

S/ THOMAS R. BRETT

Thomas R. Brett,
UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM AND CONTENT:

JONES, GIVENS, GOTCHER & BOGAN,
a professional corporation

By: Michael B. Tolson
Michael B. Tolson, OBA #14334
3800 First National Tower
Tulsa, Oklahoma 74103-4309
(918) 581-8200

ATTORNEYS FOR PLAINTIFF

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

WILLIAM JAMES RAMSAY,
Personal Representative of the
Estate of Frances Ethel Ramsay,
Deceased,

Plaintiff,

vs.

No. 89-C-1032-C

MARK N. MASON and LISA D. MASON,
husband and wife:
FIRST SECURITY MORTGAGE
COMPANY,

Defendants,

and


RESOLUTION TRUST CORPORATION,
as Receiver for Cross Roads
Savings & Loan Association, its
wholly owned subsidiary and
Cross Roads Financial Services,
Inc.,

Additional Party Defendant.

FILED
JAN 23 1991
Jack C. Silver, Clerk
U.S. DISTRICT COURT

ORDER DISMISSING ALL CLAIMS WITH PREJUDICE

This matter comes on for consideration on this 22 day of January, 1991, upon the application of all the parties hereto for a dismissal with prejudice of all claims asserted in this lawsuit and the Court finds that the same should be sustained and that it be Ordered, Adjudged and Decreed that all claims of the parties hereto are hereby dismissed with prejudice.


JUDGE OF THE UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT OF
OKLAHOMA

WILLIAM JAMES RAMSAY,
Personal Representative of the
Estate of Frances Ethel Ramsay,
Deceased by Philip McGowan


Philip McGowan

Mark N. Mason and Lisa D. Mason,
husband and wife by Gerald Swanson

Gerald Swanson
Gerald Swanson

Resolution Trust Corporation as
Receiver for Cross Roads Savings &
Loan Association and its wholly
owned subsidiary Cross Roads
Financial Services, Inc.,
Additional Party Defendant
by Mike Daniel

Mike Daniel
Mike Daniel

Reserving all rights against
First Security Mortgage Company
asserted in In re: First Security

Mortgage Company Case No 89-3147-W
U.S. Bankruptcy Court N.D. Okla. 1

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 22 1991

JACK C. SILVER, CLERK
U.S. DISTRICT COURT

NATHALIE JOHNSON, et al.,
Plaintiffs,

vs.

INDEPENDENT SCHOOL DISTRICT,
NO. 4 OF BIXBY, TULSA COUNTY,
OKLAHOMA, et al.,

Defendants.

No. 88-C-340-C

ORDER

This action is hereby remanded to the Oklahoma State Department of Education for the purpose of conducting a hearing which employs the standard set forth in the mandate of the United States Court of Appeals for the Tenth Circuit.

IT IS SO ORDERED this 22nd day of January, 1991.


H. DALE COOK

Chief Judge, U. S. District Court

GDR:bls
12-11-90

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA

IN RE: ASBESTOS LITIGATION) MASTER #1417
) ASB-TW-5284

HAROLD CURLEE and KATHRYN LOUISE
CURLEE, Plaintiff's Spouse,

Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

No. 890-C-386-C

ORDER OF DISMISSAL

Now on this 22nd day of January, 1990, this matter comes on for hearing by virtue of the Stipulation for Dismissal With Prejudice (specifically reserving certain claims, against the defendant, The Milwhite Co., only). For good cause shown, the Court finds that said Stipulation shall be granted and that Plaintiffs' claims (save and except Plaintiffs potential claims for cancer and fear of cancer) be dismissed with prejudice against Defendant, The Milwhite Co., only, reserving Plaintiffs rights to any other parties to this action. Each party to bear their own costs.

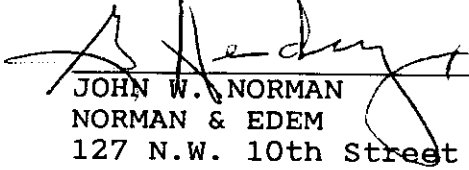
24 Sale Wood
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT JUDGE


5284

UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM:


JOHN W. NORMAN
NORMAN & EDEM
127 N.W. 10th Street
Renaissance Centre East
Oklahoma City, Oklahoma 73103
(405) 272-0200

ATTORNEYS FOR PLAINTIFFS


MICHAEL W. HINKLE, OBA #4227
MILLS, WHITTEN, MILLS,
MILLS & HINKLE
Suite 500, One Leadership Square
211 North Robinson
Oklahoma City, Oklahoma 73102
(405) 239-2500

ATTORNEYS FOR DEFENDANT,
THE MILWHITE CO.

FILED

IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE NORTHERN DISTRICT OF OKLAHOMA

JAN 20 1991

Jack C. Silver, Clerk
U.S. DISTRICT COURT

IN RE:)
ASBESTOS CASES) M-1417
LEONARD BALLENGER, ET AL.) ASB (I) - 5280
Plaintiffs,)
vs.) No. 88-C-209-E
FIBREBOARD CORP., ET AL.,)
Defendants.)

ORDER GRANTING DISMISSAL OF DEFENDANT
OWENS ILLINOIS, INC. WITH PREJUDICE

The Court being in receipt of the Application of Plaintiffs and the Defendant Owens Illinois, Inc., requesting of the Court an approval of the dismissal of Defendant Owens Illinois, Inc., with prejudice from the above-captioned matter.


And being fully advised in the premises,

IT IS HEREBY ORDERED:

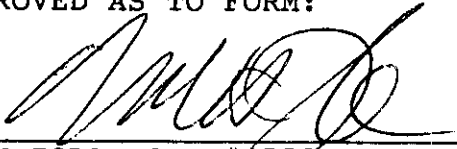
That the joint application of Plaintiffs and Defendant Owens Illinois, Inc. only is granted. The Court finds that Defendant Owens Illinois, Inc. only should be dismissed with prejudice to filing future suit and it is ordered by the Court that Defendant Owens Illinois, Inc. only is hereby dismissed as party Defendant from the case set forth above with prejudice to refiling suit.

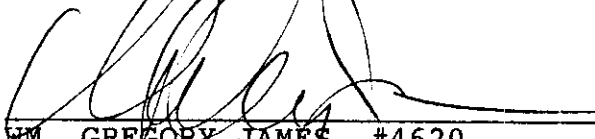
It is further ordered by the Court that each party will be responsible for its own costs, attorney fees, and any other expenses incurred by the parties that pertain to this litigation.

5280


JAMES O. ELLISON, U.S. DISTRICT
JUDGE

APPROVED AS TO FORM:


MARK IOLA, OBA #4553
Ungerman & Iola
Attorney for Plaintiffs


WM. GREGORY JAMES, #4620
Pray, Walker, Jackman, Williamson
& Marlar
Attorney for Defendant Owens Illinois

IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE NORTHERN DISTRICT OF OKLAHOMA

IN RE:)
ASBESTOS CASES)
CHESTER OSBORN, ET AL.)
Plaintiffs,)
vs.)
FIBREBOARD CORP., ET AL.,)
Defendants.)

M-1417

ASB (I) - 5279 ✓

FILED

JAN 22 1991

Jack C. Silver, Clerk
U.S. DISTRICT COURT

No. 88-C-105-E

ORDER GRANTING DISMISSAL OF DEFENDANT
OWENS ILLINOIS, INC. WITH PREJUDICE

The Court being in receipt of the Application of Plaintiffs and the Defendant Owens Illinois, Inc., requesting of the Court an approval of the dismissal of Defendant Owens Illinois, Inc., with prejudice from the above-captioned matter.


And being fully advised in the premises,

IT IS HEREBY ORDERED:


That the joint application of Plaintiffs and Defendant Owens Illinois, Inc. only is granted. The Court finds that Defendant Owens Illinois, Inc. only should be dismissed with prejudice to filing future suit and it is ordered by the Court that Defendant Owens Illinois, Inc. only is hereby dismissed as party Defendant from the case set forth above with prejudice to refiling suit.

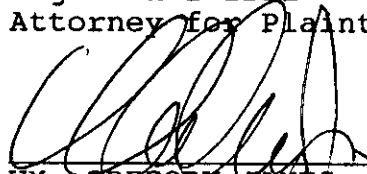
It is further ordered by the Court that each party will be responsible for its own costs, attorney fees, and any other expenses incurred by the parties that pertain to this litigation.

5279


JAMES O. ELLISON, U.S. DISTRICT
JUDGE

APPROVED AS TO FORM:


MARK IOLA, OBA #4553
Ungerman & Iola
Attorney for Plaintiffs


WM. GREGORY JAMES, #4620
Pray, Walker, Jackman, Williamson
& Marlar
Attorney for Defendant Owens Illinois

FILED

IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE NORTHERN DISTRICT OF OKLAHOMA

JAN 22 1991

Jack C. Silver, Clerk
U.S. DISTRICT COURT

IN RE:

ASBESTOS CASES

IVAN RAMSEY, ET AL.

Plaintiffs,

vs.

FIBREBOARD CORP., ET AL.,

Defendants.

M-1417

ASB (I) -

5278

No. 88-C-106-E

ORDER GRANTING DISMISSAL OF DEFENDANT
OWENS ILLINOIS, INC. WITH PREJUDICE

The Court being in receipt of the Application of Plaintiffs and the Defendant Owens Illinois, Inc., requesting of the Court an approval of the dismissal of Defendant Owens Illinois, Inc., with prejudice from the above-captioned matter.


And being fully advised in the premises,

IT IS HEREBY ORDERED:

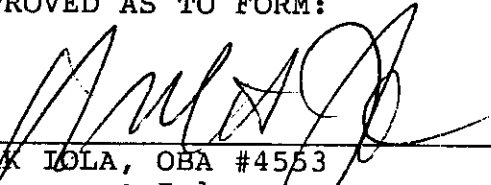
That the joint application of Plaintiffs and Defendant Owens Illinois, Inc. only is granted. The Court finds that Defendant Owens Illinois, Inc. only should be dismissed with prejudice to filing future suit and it is ordered by the Court that Defendant Owens Illinois, Inc. only is hereby dismissed as party Defendant from the case set forth above with prejudice to refiling suit.

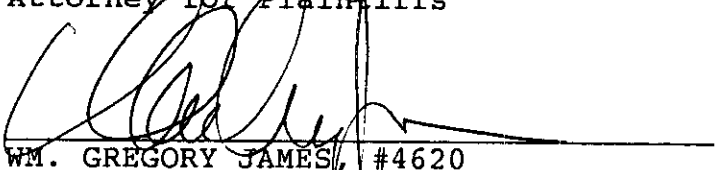
It is further ordered by the Court that each party will be responsible for its own costs, attorney fees, and any other expenses incurred by the parties that pertain to this litigation.

5278


JAMES O. ELLISON, U.S. DISTRICT
JUDGE

APPROVED AS TO FORM:


MARK IOLA, OBA #4553
Ungerma & Iola
Attorney for Plaintiffs


WM. GREGORY JAMES, #4620
Pray, Walker, Jackman, Williamson
& Marlar
Attorney for Defendant Owens Illinois

Entered
FILED
JAN 28 1991
pm

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

IN RE:

STOCKTON OIL/GAS CO., INC., and
THE REMINGTON COMPANY,

Appellants,

v.

J. SCOTT McWILLIAMS, TRUSTEE, et al,

Appellees.

Bky. Case No. 85-01974-W
Bky. Case No. 85-02114-W

(Administratively Consolidated
under Case No. 85-01974)

District Court No. 90-C-957-C

ORDER

This order pertains to Appellee's Motion for Protective Order and Staying Further Discovery Pending Ruling on Motion for Leave to Appeal and Request for Expedited Hearing (Docket #5)¹, the Motion to Quash Subpoena for Production of Documents (#7) of the Oklahoma Tax Commission, the Motion of Williams Natural Gas Company to Quash Subpoena, for Issuance of a Protective Order and for Expedited Hearing (#8), the Motion for Protective Order (#11) of The University of Tulsa, the Motion of W. T. Sanders, Sr. for contempt of Philip C. Morris (#13), the Motion for Protective Order to Quash Subpoena for Production of Documents (#16) of Ronco Energy Resources, Inc., the Motion of W. T. Sanders, Sr. to compel George Miller to comply with a subpoena²⁰, the Motion of W. T. Sanders, Sr. to compel Merton Moore to comply with a subpoena^a (#21), the Motion of W. T. Sanders, Sr. to compel Thurmond McGlothlin, Inc. to comply with a subpoena (#22), and Rosella Rodgers to comply with a subpoena

FILED

JAN 20 1991

Jack C. Silver, Clerk
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

IN RE:

STOCKTON OIL/GAS CO., INC., and
THE REMINGTON COMPANY,

Appellants,

v.

J. SCOTT McWILLIAMS, TRUSTEE, et al,

Appellees.

Bky. Case No. 85-01974-W

Bky. Case No. 85-02114-W

(Administratively Consolidated
under Case No. 85-01974)

District Court No. 90-C-957-C

ORDER

This order pertains to Appellee's Motion for Protective Order and Staying Further Discovery Pending Ruling on Motion for Leave to Appeal and Request for Expedited Hearing (Docket #5)¹, the Motion to Quash Subpoena for Production of Documents (#7) of the Oklahoma Tax Commission, the Motion of Williams Natural Gas Company to Quash Subpoena, for Issuance of a Protective Order and for Expedited Hearing (#8), the Motion for Protective Order (#11) of The University of Tulsa, the Motion of W. T. Sanders, Sr. for contempt of Philip C. Morris (#13), the Motion for Protective Order to Quash Subpoena for Production of Documents (#16) of Ronco Energy Resources, Inc., the Motion of W. T. Sanders, Sr. to compel George Miller to comply with a subpoena (#20), the Motion of W. T. Sanders, Sr. to compel Merton Moore to comply with a subpoena (#21), the Motion of W. T. Sanders, Sr. to compel Thurmond McGlothlin, Inc. to comply with a subpoena (#22), the Motion of W. T. Sanders, Sr. to compel Rosella Rodgers to comply with a subpoena

¹ "Docket numbers" refer to numerical designations assigned sequentially to each pleading, motion, order, or other filing and are included for purposes of record keeping only. "Docket numbers" have no independent legal significance and are to be used in conjunction with the docket sheet prepared and maintained by the United States Court Clerk, Northern District of Oklahoma.

(#23), the Motion of W. T. Sanders, Sr. to compel Roy E. Matlock to comply with a subpoena (#24), and the Motion of W. T. Sanders, Sr. to compel J. Scott DuCharme to comply with a subpoena (#25). A hearing was held on January 11, 1991 and oral arguments were heard.

Appellee's Motion for Protective Order and Staying Further Discovery Pending Ruling on Motion for Leave to Appeal and Request for Expedited Hearing (#5) is granted. W. T. Sanders, Sr. ("Sanders") is to provide J. Scott McWilliams ("McWilliams") with a list of the companies or entities to whom subpoenas were issued by January 31, 1991.

The Motion to Quash Subpoena for Production of Documents (#7) of the Oklahoma Tax Commission is granted.

The Motion of Williams Natural Gas Company to Quash Subpoena, for Issuance of a Protective Order and for Expedited Hearing (#8) is granted.

The Motion for Protective Order (#11) of The University of Tulsa is granted.

The Motion of W. T. Sanders, Sr. for contempt of Philip C. Morris (#13) is denied.

The Motion for Protective Order to Quash Subpoena for Production of Documents (#16) of Ronco Energy Resources, Inc. is granted.

The Motions of W. T. Sanders, Sr. to compel George Miller, Merton Moore, Thurmond McGlothlin, Inc., Rosella Rodgers, Roy E. Matlock, and J. Scott DuCharme to comply with subpoenas (#20, 21, 22, 23, 24, and 25) are denied.

McWilliams' request for copies of materials received through the subpoenas is granted. Sanders is to provide copies to McWilliams at McWilliams' expense.

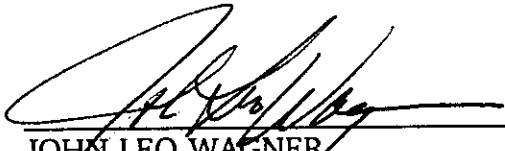
No further discovery will take place in this case. All subpoenas heretofore issued in this case are hereby quashed and no response is required by any person or entity served.

Furthermore, Mr. Sanders is hereby specifically ordered not to seek the issuance of any further subpoenas and prohibited from serving any subpoenas he may have in his possession.

The Clerk is directed not to issue any additional subpoenas at the behest of Mr. Sanders without first obtaining specific approval of the court.

The issue of sanctions against Mr. Sanders is taken under advisement pending disposition of this appeal.

Dated this 18th day of January, 1991.


JOHN LEO WAGNER
UNITED STATES MAGISTRATE JUDGE

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA

THELMA R. SPENCER and
ROBERT E. SPENCER,
individually and as husband
and wife,

Plaintiffs,

vs.

No. 90-C-640-E

KEVIN COLE; AMERICAN FAMILY
MUTUAL INSURANCE COMPANY,
a foreign corporation;
UNITED SOUTHERN ASSURANCE
COMPANY, a foreign
corporation; PORT CASTAWAYS;
KATHY HIX, as owner,
proprietor and/or license
holder of Port Castaways; and
PHILLIPS 66 COMPANY, a
Delaware corporation, and a
subsidiary of PHILLIPS
PETROLEUM COMPANY, a Delaware
corporation, d/b/a WASHINGTON
EXPRESS CONVENIENCE-DELI,
a/k/a PHILLIPS 66 FOOD PLAZA,

Defendants.

F I L E D

JAN 22 1991


Jack C. Silver, Clerk
U.S. DISTRICT COURT

**ORDER OF DISMISSAL OF DEFENDANT
UNITED SOUTHERN ASSURANCE COMPANY**

The Court being fully advised in the premises and on consideration of the parties' Joint Stipulation of Dismissal With Prejudice finds that such Order should issue.

BE IT THEREFORE ORDERED, ADJUDGED AND DECREED that plaintiffs' causes against United Southern Assurance Company, a foreign corporation, be and the same are hereby dismissed with prejudice with said parties to bear their respective costs; and the plaintiffs to reserve all of their rights against all other defendants.

Dated this 18th day of January, 1991.



JAMES O. ELLISON, United States
District Judge

GDR:rs
12-20-90

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA

IN RE: ASBESTOS LITIGATION)

MASTER #1417

ASB-TW- 5285

FILED

JAN 22 1991

Jack C. ...
U.S. DISTRICT COURT

ROY A. EAST, and CLEO A.
EAST, Plaintiff's spouse,

No. 88-C-941-C

HOWARD RICHARD GREEN, and
HELEN M. GREEN, Plaintiff's
spouse,

No. 88-C-706-C

JOE MONROE BERRY, and
GEORGIA L. BERRY Plaintiff's
spouse,

No. 88-C-784-C

BUDDY EUGENE JONES, and
VIRGINIA L. JONES Plaintiff's
spouse,

No. 88-C-790-C

ROBERT J. GANDY, and LOIS
JANE GANDY, Plaintiff's spouse

No. 88-C-960-C

WOODROW L. STANLEY, and MARY
STANLEY Plaintiff's spouse,

No. 88-C-969-C

BOBBY JOE HULSEY, and L.
MAXINE Plaintiff's spouse

No. 88-C-848-C

Plaintiffs,

-vs-

ANCHOR PACKING COMPANY, et al.,

Defendants.

ORDER OF DISMISSAL

Now on this 22nd day of January, 1991, this
matter comes on for hearing by virtue of the Stipulation for
Dismissal With Prejudice (Specifically Reserving Certain Claims,
Against the Defendant, The Milwhite Co., Only). For good cause
shown, the Court finds that said Stipulation shall be granted and

5285

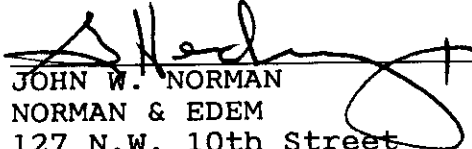
that Plaintiffs' claims (save and except Plaintiffs potential claims for cancer and fear of cancer) be dismissed against Defendant, The Milwhite Co., only, reserving Plaintiffs rights to any other parties to this action. Each Party to bear its own costs.


JUDGE H. DALE COOK


JUDGE JAMES O. ELLISON

JUDGE THOMAS R. BRETT

APPROVED AS TO FORM:


JOHN W. NORMAN
NORMAN & EDEM
127 N.W. 10th Street
Renaissance Centre East
Oklahoma City, Oklahoma 73103
(405) 272-0200

ATTORNEYS FOR PLAINTIFFS


MICHAEL W. HINKLE, OBA #4227
GARY D. ROPER, OBA #013080
STEVE L. LAWSON, OBA #12369
MILLS WHITTEN, MILLS,
MILLS & HINKLE
Suite 500, One Leadership Square
211 North Robinson
Oklahoma City, Oklahoma 73102
(405) 239-2500

ATTORNEYS FOR DEFENDANT,
THE MILWHITE CO.

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 22 1991

JOA C. SILVER, CLERK
U.S. DISTRICT COURT

HOLDEN DUNFORD, JR.,

Plaintiff,

v.

OFFICER D. PIERCE, et al,

Defendants.

Case No. 90-C-363-C /

ORDER

The Court has for consideration the Report and Recommendation of the United States Magistrate Judge filed December 21, 1990 in which the Magistrate recommended that the Motion for Summary Judgment of Defendants Smedley and Pierce be granted.

No exceptions or objections have been filed and the time for filing such exceptions or objections has expired.

After careful consideration of the record and the issues, the Court has concluded that the Report and Recommendation of the United States Magistrate should be and hereby is adopted and affirmed.

It is, therefore, Ordered that the Motion for Summary Judgment of Defendants Smedley and Pierce is granted.

Dated this 27th day of January, 1991.


H. DALE COOK, CHIEF JUDGE
UNITED STATES DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,
Plaintiff,

-vs-

SHANNON J. DAVIS,
26 639 305A

Defendant,

CIVIL NUMBER 90-C-800 E

NOTICE OF DISMISSAL

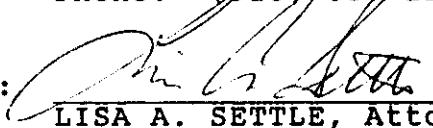
COMES NOW the Plaintiff, United States of America, by and through its attorney, Clifton R. Byrd, District Counsel, Department of Veterans Affairs, Muskogee, Oklahoma, and voluntarily dismisses said action without prejudice under the provisions of Rule 41(a)(1), Federal Rules of Civil Procedure.

Respectfully submitted,

UNITED STATES OF AMERICA

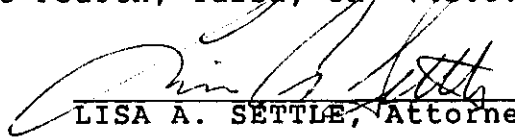
Clifton R. Byrd
District Counsel
Department of Veterans Affairs
125 South Main Street
Muskogee, OK 74401
Phone: (918) 687-2191

By:


LISA A. SETTLE, Attorney

CERTIFICATE OF MAILING

This is to certify that on the _____ day of _____, 1991, a true and correct copy of the foregoing was mailed, postage prepaid thereon, to: SHANNON J. DAVIS, at 16125 East Fourth, Tulsa, OK, 74108.


LISA A. SETTLE, Attorney

IN THE UNITED STATES DISTRICT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 22 1991

CLERK
U.S. DISTRICT COURT

R. LOUISE KNIGHT, et al.

Plaintiffs,

vs.

KNIGHT-CRAWFORD INDUSTRIES, INC.,
et al.,

Defendants,

KNIGHT-CRAWFORD INDUSTRIES, INC.,

Third-Party Plaintiff,

vs.

DEAN B. KNIGHT, SR., et al.,

Third-Party Defendants.

DEAN B. KNIGHT, SR., et al.

Plaintiffs,

vs.

KNIGHT-CRAWFORD INDUSTRIES, INC.,
et al.

Defendants,

Case No. 89-C-22 C

Consolidated with

Case No. 89-C-788 C

JOINT STIPULATION OF DISMISSAL

The Defendant and Third Party Plaintiff, Knight Crawford Industries, Inc. ("KCI") and the Third Party Defendant and Plaintiff, Dean B. Knight, Jr. ("Knight") pursuant to FED. R. Civ. P. 41(a)(1)(ii), stipulate that all claims for relief which they have asserted against one another in the captioned action be dismissed with prejudice to refiling, with KCI and

145

Knight to bear their own respective costs and attorneys' fees.

TILLY & WARD

By James W. Tilly
James W. Tilly OBA #9019
Two West Second, Suite 2220
P.O. Box 3645
Tulsa, OK 74101-3645
(918) 583-8868

Attorneys for Dean B. Knight, Jr.

CRAWFORD, CROWE, & BAINBRIDGE

By B. Hayden Crawford
B. Hayden Crawford
Sherrie Thompson McAllister
1714 First National Building
Tulsa, Oklahoma 74103

and

KRAMON & GRAHAM
James P. Ulwick
Sun Life Building - 6th Floor
20 South Charles Street
Baltimore, MD 21201

Attorneys for Knight Crawford Industries, Inc.